

## Outside Sections

### *Local Aid Distribution*

SECTION 3. Notwithstanding the provisions of any general or special law to the contrary, for the fiscal year ending June 30, 2005, the distribution to cities and towns of the balance of the State Lottery Fund, as paid by the treasurer from the General Fund in accordance with the provisions of clause (c) of the second paragraph of [section 35 of chapter 10](#) of the General Laws, shall be \$661,378,162 and shall be apportioned to the cities and towns in accordance with this section.

Notwithstanding the provisions of any general or special law to the contrary, except for [section 12B of chapter 76](#) of the General Laws and [section 89 of chapter 71](#) of the General Laws, the total amounts to be distributed and paid to each city, town, regional school district, independent agricultural school and county maintaining an agricultural school from items [0611-5500](#) and [7061-0008](#) of section 2 of this act shall be as set forth in the following lists; provided, that the amounts to be distributed from item [0611-5500](#) of said section 2 are hereby deemed to be in full satisfaction of the amounts due under [section 37 of chapter 21](#) of the General Laws. No payments shall be made after November 30, 2004, to a city, town, or to a county maintaining an agricultural school pursuant to this section until the state treasurer receives certification from the commissioner of revenue of said commissioner's acceptance of the prior fiscal year's annual financial reports submitted by the city, town or county pursuant to the provisions of [section 43 of chapter 44](#) of the General Laws.

Notwithstanding the provisions of [section 2 of chapter 70](#) of the General Laws or any other general or special law to the contrary, for fiscal year 2005, no school district shall have a wage adjustment factor less than one.

Notwithstanding the provisions of any general or special law to the contrary, minimum required local contributions for fiscal year 2005 as calculated by the department of education shall equal preliminary local contribution in fiscal year 2004 increased by the municipal revenue growth factor.

Notwithstanding the provisions of any general or special law to the contrary, for fiscal year 2005, [chapter 70](#) aid shall be the difference between a district's foundation budget and the sum of that district's share of preliminary local contributions of member communities as determined by the department of education; provided, that each district shall receive at least as much aid as the district received in [chapter 70](#) aid in fiscal year 2004; provided further, that no district shall receive [chapter 70](#) aid in an amount greater than the district's foundation budget. If there is a conflict between the provisions of this section and the distributions listed below, the distribution below shall control.

	<b>7061-0008</b>	<b>0611-5500</b>	
<b>Municipality</b>	<b>Chapter 70</b>	<b>Additional Assistance</b>	<b>Lottery Distribution</b>
ABINGTON	6,777,604	0	1,758,051
ACTON	2,603,014	29,696	1,195,284
ACUSHNET	5,865,739	23,875	1,349,775

ADAMS	0	35,042	1,720,579
AGAWAM	9,971,790	0	3,138,137
ALFORD	0	0	12,923
AMESBURY	8,322,927	0	1,763,634
AMHERST	4,916,388	222,910	6,883,094
ANDOVER	4,945,356	0	1,576,354
AQUINNAH	0	0	1,887
ARLINGTON	4,802,777	4,491,775	3,833,185
ASHBURNHAM	0	0	595,717
ASHBY	0	0	349,366
ASHFIELD	66,103	0	143,485
ASHLAND	2,588,396	291,598	909,060
ATHOL	0	4,377	1,924,937
ATTLEBORO	26,537,666	0	4,874,098
AUBURN	3,735,310	0	1,465,175
AVON	570,215	400,636	347,387
AYER	3,588,964	44,218	653,637
BARNSTABLE	6,105,388	0	1,799,394

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<b>Municipality</b>	<b>Chapter 70</b>	<b>Additional Assistance</b>	<b>Lottery Distribution</b>
BARRE	14,940	0	677,399
BECKET	73,044	8,580	65,888
BEDFORD	1,935,588	484,271	699,674
BELCHERTOWN	9,256,975	0	1,316,398
BELLINGHAM	7,538,234	0	1,618,431
BELMONT	2,824,519	827,483	1,520,795
BERKLEY	4,843,862	0	478,440
BERLIN	494,057	0	190,373
BERNARDSTON	0	0	223,551
BEVERLY	6,107,219	2,452,442	3,485,521
BILLERICA	12,688,538	2,349,321	3,617,520
BLACKSTONE	38,454	0	1,130,441

BLANDFORD	0	0	101,161
BOLTON	0	0	158,122
BOSTON	200,498,366	164,211,152	53,968,473
BOURNE	4,398,105	352,555	1,037,581
BOXBOROUGH	1,290,263	0	206,884
BOXFORD	1,446,557	36,411	400,102
BOYLSTON	381,691	0	302,601
BRAINTREE	4,655,171	3,378,041	2,790,848
BREWSTER	820,927	0	337,981
BRIDGEWATER	112,410	0	2,792,709
BRIMFIELD	878,098	0	310,111
BROCKTON	106,909,135	4,310,392	15,637,164
BROOKFIELD	1,308,158	0	420,657
BROOKLINE	4,922,047	3,497,741	3,380,871
BUCKLAND	0	0	232,150
BURLINGTON	3,547,194	1,386,400	1,360,578
CAMBRIDGE	6,791,105	17,956,060	6,820,267
CANTON	2,512,730	878,002	1,260,474
CARLISLE	586,786	14,729	187,183
CARVER	9,165,331	0	1,255,697
CHARLEMONT	66,103	0	134,534
CHARLTON	0	0	1,090,377
CHATHAM	448,125	0	147,795
CHELMSFORD	6,593,456	2,535,342	2,759,926
CHELSEA	41,740,214	3,396,864	4,747,616
CHESHIRE	242,992	0	457,909
CHESTER	0	0	140,028
CHESTERFIELD	84,990	0	105,694
CHICOPEE	36,376,295	1,195,616	8,535,325
CHILMARK	0	0	3,358

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<b>Municipality</b>	<b>Chapter 70</b>	<b>Additional Assistance</b>	<b>Lottery Distribution</b>
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CLARKSBURG	1,464,518	13,114	305,399
CLINTON	8,794,604	175,517	1,915,036
COHASSET	1,147,273	166,099	365,106
COLRAIN	0	0	196,429
CONCORD	1,542,930	383,959	817,244
CONWAY	556,983	0	140,227
CUMMINGTON	32,478	0	61,610
DALTON	141,724	0	848,429
DANVERS	3,570,012	1,118,972	1,722,964
DARTMOUTH	7,856,279	0	2,217,842
DEDHAM	3,053,874	1,550,298	1,898,464
DEERFIELD	618,744	0	421,939
DENNIS	0	0	471,165
DEVENS	328,000	0	0
DIGHTON	0	0	601,950
DOUGLAS	6,152,475	0	589,300
DOVER	331,900	0	179,149
DRACUT	14,108,912	0	3,086,109
DUDLEY	0	0	1,306,181
DUNSTABLE	0	30,076	166,548
DUXBURY	2,655,314	0	823,068
EAST BRIDGEWATER	9,132,173	0	1,291,216
EAST BROOKFIELD	21,904	0	239,424
EAST LONGMEADOW	3,278,506	0	1,163,174
EASTHAM	242,054	0	128,941
EASTHAMPTON	6,970,699	108,874	2,305,254
EASTON	7,453,839	0	1,883,909
EDGARTOWN	323,078	28,507	40,872
EGREMONT	0	0	55,927
ERVING	245,334	13,150	54,375
ESSEX	0	33,828	203,853
EVERETT	19,186,896	4,084,357	3,050,157
FAIRHAVEN	6,793,464	391,434	1,756,757
FALL RIVER	85,786,179	2,290,951	19,402,249
FALMOUTH	4,231,106	0	1,216,594

FITCHBURG	35,692,323	214,811	7,230,474
FLORIDA	415,390	0	44,427
FOXBOROUGH	5,687,603	0	1,360,167
FRAMINGHAM	8,131,670	4,697,500	5,530,116
FRANKLIN	22,115,037	0	2,141,760
FREETOWN	892,240	0	845,301
GARDNER	17,864,568	120,747	3,490,701

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<b>Municipality</b>	<b>Chapter 70</b>	<b>Additional Assistance</b>	<b>Lottery Distribution</b>
GEORGETOWN	3,271,897	52,998	596,482
GILL	0	0	185,131
GLOUCESTER	5,243,302	1,923,054	2,264,906
GOSHEN	71,297	0	59,634
GOSNOLD	8,046	1,962	468
GRAFTON	5,670,024	0	1,363,188
GRANBY	3,411,397	0	724,012
GRANVILLE	1,179,511	0	120,132
GREAT BARRINGTON	0	0	681,422
GREENFIELD	8,625,218	0	2,656,246
GROTON	0	0	633,120
GROVELAND	0	0	572,919
HADLEY	593,711	138,341	280,365
HALIFAX	2,135,704	0	799,621
HAMILTON	0	42,887	533,202
HAMPDEN	0	0	514,302
HANCOCK	133,439	17,638	32,868
HANOVER	4,226,163	1,326,394	938,920
HANSON	28,330	0	1,096,347
HARDWICK	0	3,228	336,620
HARVARD	1,145,540	55,090	1,648,035
HARWICH	1,363,502	0	376,383

HATFIELD	537,782	0	268,720
HAVERHILL	31,598,621	2,503,145	6,827,711
HAWLEY	24,249	12,924	24,447
HEATH	0	0	54,725
HINGHAM	3,162,330	334,151	1,214,451
HINSDALE	75,547	0	179,555
HOLBROOK	4,107,148	4,757	1,370,152
HOLDEN	0	0	1,454,110
HOLLAND	654,814	0	153,540
HOLLISTON	5,801,129	412,300	1,088,152
HOLYOKE	59,926,676	606,646	8,164,179
HOPEDALE	5,064,647	0	567,333
HOPKINTON	4,434,941	120,287	558,625
HUBBARDSTON	0	0	293,378
HUDSON	5,242,895	0	1,824,009
HULL	3,613,343	1,388,549	966,033
HUNTINGTON	0	0	266,546
IPSWICH	1,968,840	775,432	894,957
KINGSTON	3,233,959	0	807,788
LAKEVILLE	2,110,914	0	669,072

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<b>Municipality</b>	<b>Chapter 70</b>	<b>Additional Assistance</b>	<b>Lottery Distribution</b>
LANCASTER	0	0	773,606
LANESBOROUGH	498,078	0	311,424
LAWRENCE	114,763,770	190,699	16,928,453
LEE	1,482,316	0	575,965
LEICESTER	8,492,114	0	1,515,032
LENOX	1,073,673	72,146	476,164
LEOMINSTER	31,305,976	11,693	4,779,809
LEVERETT	217,431	0	153,710
LEXINGTON	4,895,754	0	1,392,955
LEYDEN	0	0	61,869

LINCOLN	458,937	292,012	415,099
LITTLETON	1,387,507	164,924	500,608
LONGMEADOW	3,385,200	0	1,182,253
LOWELL	107,855,929	6,340,746	17,476,479
LUDLOW	9,232,972	0	2,401,815
LUNENBURG	3,625,757	0	941,409
LYNN	98,025,489	9,477,523	12,851,766
LYNNFIELD	1,659,938	362,288	674,713
MALDEN	29,714,973	5,586,730	7,454,621
MANCHESTER	0	0	214,734
MANSFIELD	10,555,161	725,040	1,292,920
MARBLEHEAD	2,435,289	39,403	1,026,392
MARION	317,718	0	198,208
MARLBOROUGH	5,916,088	2,728,327	2,786,797
MARSHFIELD	11,635,063	202,756	1,832,675
MASHPEE	3,981,423	0	236,666
MATTAPOISETT	449,798	0	371,347
MAYNARD	2,145,808	586,886	1,004,037
MEDFIELD	4,008,989	744,614	760,033
MEDFORD	9,996,450	6,432,448	6,402,709
MEDWAY	6,153,863	187,002	897,832
MELROSE	5,012,390	2,704,187	2,786,945
MENDON	19,043	0	333,019
MERRIMAC	0	0	652,335
METHUEN	28,060,249	163,026	4,603,440
MIDDLEBOROUGH	14,891,489	0	2,152,990
MIDDLEFIELD	0	0	36,878
MIDDLETON	1,400,481	126,570	306,150
MILFORD	9,314,774	0	2,740,501
MILLBURY	5,796,003	0	1,550,680
MILLIS	1,821,686	320,940	708,699
MILLVILLE	18,901	0	299,243

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Municipality	Chapter 70	Additional Assistance	Lottery Distribution
MILTON	3,219,806	1,245,145	2,082,868
MONROE	83,276	13,927	6,377
MONSON	6,240,806	0	1,078,262
MONTAGUE	1,037	0	1,050,583
MONTEREY	0	12,538	31,187
MONTGOMERY	0	0	71,839
MOUNT WASHINGTON	19,108	33,286	2,817
NAHANT	364,640	125,393	265,399
NANTUCKET	775,218	0	66,534
NATICK	3,945,346	1,942,474	2,069,792
NEEDHAM	3,603,998	205,993	1,418,675
NEW ASHFORD	113,805	7,313	8,028
NEW BEDFORD	101,883,880	716,255	20,272,783
NEW BRAINTREE	0	0	96,712
NEW MARLBOROUGH	0	0	48,224
NEW SALEM	0	0	79,036
NEWBURY	0	0	397,117
NEWBURYPORT	2,793,820	1,380,057	1,360,628
NEWTON	9,115,550	1,377,012	4,428,398
NORFOLK	3,236,571	0	842,604
NORTH ADAMS	13,731,726	185,853	3,781,341
NORTH ANDOVER	3,911,440	120,549	1,635,892
NORTH ATTLEBOROUGH	17,562,102	0	2,538,546
NORTH BROOKFIELD	4,329,232	0	707,851
NORTH READING	3,268,872	945,499	921,054
NORTHAMPTON	6,425,910	577,922	3,460,946
NORTHBOROUGH	2,491,114	61,111	918,552
NORTHBRIDGE	12,161,767	3,071	1,985,075
NORTHFIELD	0	0	259,157



NORTON	11,301,098	0	1,794,549
NORWELL	1,815,262	541,079	584,616
NORWOOD	3,359,544	2,665,880	2,280,261
OAK BLUFFS	507,397	0	62,930
OAKHAM	56,660	0	146,533
ORANGE	4,875,842	2,115	1,393,773
ORLEANS	214,362	0	159,824
OTIS	75,547	0	25,525
OXFORD	8,155,445	0	1,848,802
PALMER	10,069,381	0	1,607,734
PAXTON	80,630	0	397,604
PEABODY	15,666,037	3,140,276	4,273,806
PELHAM	112,953	0	129,327

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<b>Municipality</b>	<b>Chapter 70</b>	<b>Additional Assistance</b>	<b>Lottery Distribution</b>
PEMBROKE	7,895,714	0	1,463,767
PEPPERELL	0	0	1,104,533
PERU	34,312	0	89,232
PETERSHAM	297,366	0	94,046
PHILLIPSTON	0	4,386	137,975
PITTSFIELD	27,287,301	880,284	6,708,257
PLAINFIELD	18,887	0	37,273
PLAINVILLE	2,334,300	0	655,201
PLYMOUTH	16,321,643	0	3,279,583
PLYMPTON	478,208	0	208,033
PRINCETON	0	0	259,175
PROVINCETOWN	247,301	22,181	124,552
QUINCY	12,132,223	11,567,002	9,033,749
RANDOLPH	10,240,371	1,825,854	3,311,003
RAYNHAM	0	0	964,956
READING	6,082,107	1,534,901	1,841,015
REHOBOTH	0	0	796,592

REVERE	23,784,526	5,334,444	5,316,611
RICHMOND	308,895	0	99,313
ROCHESTER	1,299,420	0	359,839
ROCKLAND	8,823,145	394,336	2,104,059
ROCKPORT	1,142,321	0	394,035
ROWE	42,445	0	3,692
ROWLEY	0	114,232	391,966
ROYALSTON	0	0	124,147
RUSSELL	0	0	192,357
RUTLAND	8,895	0	660,841
SALEM	10,290,730	3,298,731	3,582,967
SALISBURY	0	0	537,269
SANDISFIELD	0	0	25,694
SANDWICH	5,453,106	88,406	813,793
SAUGUS	3,382,514	1,784,087	1,999,340
SAVOY	456,622	13,801	85,489
SCITUATE	3,051,265	875,037	1,231,872
SEEKONK	2,931,775	0	1,057,967
SHARON	6,098,815	62,495	1,196,755
SHEFFIELD	7,405	11,938	190,069
SHELBURNE	0	0	224,115
SHERBORN	316,331	20,951	179,491
SHIRLEY	3,950,169	185,558	993,217
SHREWSBURY	11,901,508	298,861	2,110,492
SHUTESBURY	458,403	0	127,296

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<b>Municipality</b>	<b>Chapter 70</b>	<b>Additional Assistance</b>	<b>Lottery Distribution</b>
SOMERSET	2,553,323	0	1,240,942
SOMERVILLE	19,441,989	16,219,924	10,692,616
SOUTH HADLEY	5,184,111	20,214	2,189,688
SOUTHAMPTON	2,265,949	0	492,324
SOUTHBOROUGH	2,505,027	0	367,543

SOUTHBRIDGE	14,524,446	0	3,019,639
SOUTHWICK	0	0	937,706
SPENCER	208,847	0	1,789,359
SPRINGFIELD	215,963,643	1,829,496	28,974,118
STERLING	0	0	595,435
STOCKBRIDGE	0	0	93,460
STONEHAM	2,627,863	2,028,958	1,915,613
STOUGHTON	8,600,788	103,134	2,898,763
STOW	0	6,974	367,900
STURBRIDGE	1,039,058	0	650,667
SUDBURY	3,351,225	641,561	778,236
SUNDERLAND	833,349	0	402,993
SUTTON	4,664,139	0	661,909
SWAMPSCOTT	1,944,830	352,328	892,119
SWANSEA	3,973,381	0	1,650,958
TAUNTON	38,611,178	0	7,597,724
TEMPLETON	0	0	1,052,152
TEWKSBURY	11,685,390	0	2,540,701
TISBURY	284,186	0	91,244
TOLLAND	0	9,864	4,971
TOPSFIELD	583,120	253,284	369,587
TOWNSEND	0	0	1,007,487
TRURO	209,577	0	26,236
TYNGSBOROUGH	6,143,081	0	793,386
TYRINGHAM	29,274	0	11,431
UPTON	6,830	0	429,828
UXBRIDGE	8,869,122	0	1,239,204
WAKEFIELD	3,895,320	1,438,080	2,070,499
WALES	592,846	0	192,249
WALPOLE	4,314,774	883,775	1,661,399
WALTHAM	5,727,143	5,458,868	4,764,032
WARE	7,030,768	15,257	1,433,470
WAREHAM	11,089,212	0	1,824,735
WARREN	236,226	0	613,802
WARWICK	0	28,890	70,313
WASHINGTON	16,679	23,752	58,939
WATERTOWN	2,375,554	4,427,251	2,675,788

	<b>7061-0008</b>	<b>0611-5500</b>	
<b>Municipality</b>	<b>Chapter 70</b>	<b>Additional Assistance</b>	<b>Lottery Distribution</b>
WAYLAND	2,290,575	280,373	611,716
WEBSTER	6,733,905	62,006	2,079,811
WELLESLEY	2,949,947	96,838	1,163,702
WELLFLEET	116,462	0	54,888
WENDELL	0	25,534	109,541
WENHAM	0	139,794	285,763
WEST BOYLSTON	2,552,355	67,754	595,198
WEST BRIDGEWATER	1,570,286	47,212	552,344
WEST BROOKFIELD	118,149	0	392,097
WEST NEWBURY	0	0	251,169
WEST SPRINGFIELD	13,188,862	0	2,851,691
WEST STOCKBRIDGE	0	0	91,587
WEST TISBURY	0	182,434	30,556
WESTBOROUGH	2,592,041	145,058	859,807
WESTFIELD	29,328,636	0	5,085,250
WESTFORD	11,051,391	895,514	1,196,145
WESTHAMPTON	278,415	0	118,799
WESTMINSTER	0	0	538,162
WESTON	1,367,350	0	346,827
WESTPORT	3,945,860	0	1,124,879
WESTWOOD	2,108,502	36,263	635,077
WEYMOUTH	19,167,340	2,424,084	6,423,581
WHATELY	124,453	0	106,535
WHITMAN	86,579	0	1,926,372
WILBRAHAM	0	0	1,077,658

WILLIAMSBURG	350,234	0	271,186
WILLIAMSTOWN	880,910	0	835,190
WILMINGTON	3,307,933	1,254,452	1,245,458
WINCHENDON	9,655,922	25,366	1,367,138
WINCHESTER	2,953,621	344,404	1,124,847
WINDSOR	18,887	28,020	54,390
WINTHROP	4,933,195	2,287,531	2,248,669
WOBURN	4,502,553	3,586,952	2,809,553
WORCESTER	156,754,121	11,809,090	26,953,316
WORTHINGTON	0	0	94,935
WRENTHAM	3,386,805	0	846,314
YARMOUTH	0	0	1,075,298
<b>Total Municipal Aid</b>	<b>2,670,825,537</b>	<b>378,517,988</b>	<b>661,378,162</b>

The amounts listed in this section below for regional school districts shall not be in addition to the municipal aid amounts listed above in this section, but shall be the total amount of state aid owed to a regional school district from cities and towns participating in the regional school district.

#### 7061-0008

<b>Regional School District</b>	<b>Chapter 70</b>
ACTON BOXBOROUGH	2,890,613
ADAMS CHESHIRE	9,590,090
AMHERST PELHAM	9,244,885
ASHBURNHAM WESTMINSTER	8,787,951
ASSABET VALLEY	2,441,550
ATHOL ROYALSTON	16,220,282
BERKSHIRE HILLS	2,614,817
BERLIN BOYLSTON	770,332
BLACKSTONE MILLVILLE	10,270,844
BLACKSTONE VALLEY	4,662,752
BLUE HILLS	3,035,559
BRIDGEWATER RAYNHAM	19,011,812
BRISTOL COUNTY	1,182,529
BRISTOL PLYMOUTH	6,046,016
CAPE COD	1,776,571

CENTRAL BERKSHIRE	7,628,881
CHESTERFIELD GOSHEN	638,591
CONCORD CARLISLE	1,417,979
DENNIS YARMOUTH	6,120,344
DIGHTON REHOBOTH	10,772,741
DOVER SHERBORN	1,138,654
DUDLEY CHARLTON	20,867,049
ESSEX COUNTY	3,664,972
FARMINGTON RIVER	360,806
FRANKLIN COUNTY	2,407,670
FREETOWN LAKEVILLE	6,365,808
FRONTIER	2,613,407
GATEWAY	5,644,248
GILL MONTAGUE	5,837,026
GREATER FALL RIVER	11,246,848
GREATER LAWRENCE	15,820,969
GREATER LOWELL	15,833,811
GREATER NEW BEDFORD	17,328,479
GROTON DUNSTABLE	9,553,130
HAMILTON WENHAM	3,061,591
HAMPDEN WILBRAHAM	9,400,100
HAMPSHIRE	2,383,522
HAWLEMONT	606,785
KING PHILIP	5,912,077

**7061-0008**

<b>Regional School District</b>	<b>Chapter 70</b>
LINCOLN SUDBURY	1,711,978
MANCHESTER ESSEX	1,317,284
MARTHAS VINEYARD	2,631,535
MASCONOMET	4,376,708
MENDON UPTON	8,736,648
MINUTEMAN	2,052,550
MOHAWK TRAIL	5,904,434

MONTACHUSETT	7,837,532
MOUNT GREYLOCK	1,635,600
NARRAGANSETT	8,330,139
NASHOBA	5,181,573
NASHOBA VALLEY	1,908,915
NAUSET	3,122,423
NEW SALEM WENDELL	595,315
NORFOLK COUNTY	594,178
NORTH MIDDLESEX	18,837,421
NORTH SHORE	1,407,994
NORTHAMPTON SMITH	732,334
NORTHBORO SOUTHBORO	1,637,110
NORTHEAST METROPOLITAN	5,201,971
NORTHERN BERKSHIRE	3,190,923
OLD COLONY	2,524,441
OLD ROCHESTER	1,469,860
PATHFINDER	2,375,168
PENTUCKET	12,188,763
PIONEER	3,808,395
QUABBIN	15,119,489
QUABOAG	7,260,044
RALPH C MAHAR	4,324,126
SHAWSHEEN VALLEY	3,074,457
SILVER LAKE	5,606,085
SOUTH MIDDLESEX	2,131,644
SOUTH SHORE	1,688,259
SOUTHEASTERN	8,867,856
SOUTHERN BERKSHIRE	1,687,824
SOUTHERN WORCESTER	5,179,076
SOUTHWICK TOLLAND	6,978,429
SPENCER EAST BROOKFIELD	12,374,287
TANTASQUA	6,695,256
TRI COUNTY	3,298,547
TRITON	7,625,408
UPISLAND	767,074

**7061-0008**

<b>Regional School District</b>	<b>Chapter 70</b>
UPPER CAPE COD	2,560,503
WACHUSETT	14,215,484
WHITMAN HANSON	21,130,837
WHITTIER	4,854,517
<b>Total Regional Aid</b>	<b>509,922,485</b>

<b>Total Municipal and Regional Aid</b>	<b>3,180,748,022</b>	<b>661,378,162</b>	<b>378,517,988</b>
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*Accessible Housing Registry*

SECTION 4. Subsection (i) of [section 79 of chapter 6](#) of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by inserting at the beginning thereof the following:- in conjunction with the executive office of health and human services,.

*Criminal Justice Training Council Fee*

SECTION 5. Said [chapter 6](#), as so appearing, is hereby amended by inserting after section 116C the following new section:-

Section 116C½. The criminal justice training council shall charge a fee for training programs operated by the council for all persons who begin training on or after July 1, 2004. The amount of said fee shall be established pursuant to [section 3B of chapter 7](#). Said fee shall be retained and expended by said council subject to appropriation. The trainee, or, if the trainee is a recruit, the municipality in which the recruit shall serve, shall provide said fee in full to the council no later than the first day of orientation for the program in which such trainee or recruit has enrolled. No recruit or person shall begin training unless said municipality or said person has provided said fee in full to said council. For recruits of municipalities, upon the completion of said program, the municipality shall deduct said fee from said recruit's wages in 23 equal monthly installments, unless otherwise negotiated between said recruit and the municipality in which said recruit shall serve. If a recruit withdraws from the training program before graduation, said council shall refund the municipality in which the recruit was to have served a portion of said fee according to the following schedule: if a recruit withdraws from said program before the start of week 2, 75 per cent of said payment shall be refunded; if a recruit withdraws from said program after the start of week 2 but before the start of week 3, 50 per cent of said fee shall be refunded and if a recruit withdraws from said program after the start of week 3 but before the start of week 4, 25 per cent of said fee shall be refunded; if a recruit withdraws after the start of week 4, the fee shall not be refunded. A recruit who withdraws from said program shall pay the municipality in which he was to have served the difference between said fee and the



amount forfeited by said municipality according to said schedule. Said schedule shall also apply to trainees other than recruits who enroll in said program. No expenditures shall be charged to item [8200-0222](#) of section 2 of this act that are related to chief, veteran, in-service, or reserve training, or any training not directly related to new recruits.

### *Sex Offender Data on the Internet*

SECTION 6. [Section 178D of said chapter 6](#), as most recently amended by [section 5 of chapter 140 of the acts of 2003](#), is hereby further amended by striking out in the second paragraph the words " and (viii) whether the offender is in compliance with the registration obligations of sections 178C to 178P, inclusive." and inserting in place thereof the following:- (viii) whether the offender is in compliance with the registration obligations of sections 178C to 178P, inclusive; and (ix) the name and address of the institution of higher learning that the sex offender is attending.

### *Registry Fee Repeal*

SECTION 7. [Section 178Q of chapter 6](#) of the General Laws, as inserted by [section 12 of chapter 26 of the acts of 2003](#), is hereby repealed.

### *Reunification of Labor and Workforce Development*

SECTION 8. [Chapter 6A](#) of the General Laws is hereby amended by striking out section 16G, as added by [section 550 of chapter 26 of the acts of 2003](#), and inserting in place thereof the following section:-

Section 16G. (a) Within the executive office of economic development, there shall be a department of business and technology, an office of consumer affairs and business regulation, and a department of labor and workforce development. Subject to appropriation, the departments shall maintain offices in Boston and elsewhere as may be approved by the governor and may expend sums for necessary expenses of those departments. The executive office may accept gifts or grants of money or property whether real or personal, from any source, public or private, including, but not limited to, the United States of America or its agencies, for the purpose of assisting the departments in the discharge of their duties.

(b) The following state agencies shall be within the department of business and technology: the office of business development, the office of small business and entrepreneurship, the office of science and technology, the office of travel and tourism, the trade office and the office of minority and women business assistance.

(c) The following state agencies shall be within the office of consumer affairs and business regulation: the state racing commission, the division of banks, the division of insurance, the division of standards, the department of telecommunications and energy, the division of professional licensure and the division of energy resources.

(d) The following state agencies shall be within the department of labor and workforce development:

the division of industrial accidents, the board of conciliation and arbitration, the state labor relations commission, the joint labor-management committee, the division of occupational safety, the division of unemployment assistance, the one-stop career centers, the state workforce investment board, the division of apprentice training, the division of career services, the commonwealth corporation and the workforce training fund. The division of unemployment assistance shall include the medical security trust fund and the unemployment insurance fund.

(e) The secretary of economic development shall be appointed by the governor and shall be a person of skill and experience in the field of economic development. The secretary shall serve at the pleasure of the governor, shall receive such salary as the governor shall determine and shall devote his full time to the duties of his office.

(f) In the case of a vacancy in the office of the secretary or in the case of a disability, as determined by the governor, or in his absence, the governor may designate an acting secretary to serve until the vacancy is filled or the absence or disability, as determined by the governor, ceases. The acting secretary shall have all the powers and duties of the secretary and shall have like qualifications.

(g) The governor, in conjunction with the secretary, shall appoint a director for each department within the executive office. Any such director and any inspectors and other full-time employees appointed shall devote their full time during business hours to the duties of their offices and shall not engage in other employment or business activities during business hours. In accordance with the provisions of [chapter 30A](#), and with the advice of the directors of the various departments, the secretary shall promulgate regulations with respect to the departments under the secretariat's control.

(h) In accordance with [chapter 30A](#), the secretary shall require the directors of each department to develop performance measures to evaluate the effectiveness of the individual agencies and programs in accomplishing their missions.

(1) The measures for the department of labor and workforce development for workforce programs shall include, but not be limited to: income levels of program participants before and after participation in training programs administered by the division, completion rates, placement rates and the total number of individual participants in the division's programs, employer satisfaction with the programs and direct training expenditures as a share of total expenditures.

(2) The measures for the department of labor and workforce development for labor benefit and enforcement programs shall include, but not be limited to: the number of complaints filed, the number of caseworkers per completed case, the number of caseworkers per uncompleted case, and the rates of incidences of occupational injuries and illnesses, enforcement actions as a share of complaints received and prevention costs as a share of total program costs.

(3) The measures for the department of business and technology shall include, but not be limited to: the incremental job growth attributed to services provided, the incremental trade growth attributed to the services provided, the return on investment for marketing campaigns, the number of businesses that relocated to Massachusetts as a result of marketing campaigns, the share of expenses due to administrative expenses, and the amount of non-governmental funds leveraged.

(j) The secretary shall require the departments within the executive office to report on the measures annually by December 15 to the secretary for administration and finance and the clerks of the house of representatives and the senate and the house and senate committees on ways and means. In its report, each department may include analysis as to why the measures may or may not give a true indication of the effectiveness of the programs.

(k) The secretary shall establish in the executive office an office of planning and research for economic development. The office shall compile and produce statistics and analyses regarding labor markets and the general economic situation, in order to assist workers and businesses and to assist departments within the executive office in carrying out their missions. The office shall prepare and annually

update a state economic data book, which shall contain a statistical and economic profile of the state and its regions. A copy of said data book shall be placed in the state library and in the central offices of the division of unemployment assistance and the department of labor and workforce development and shall be made available to any person for review. The secretary may accept gifts or grants of money or property, whether real or personal, from any source, public or private, including, but not limited to, the United States of America or its agencies, for the purpose of assisting the office in the discharge of its duties. Subject to appropriation, the secretary may appoint a senior staff member who shall be responsible for developing a comprehensive plan to promote economic development in all regions of the commonwealth. Nothing in this section shall confer any powers or impose any duties upon the secretary with respect to the foregoing agencies except as expressly provided by law.

#### *Reunification of Labor and Workforce Development*

SECTION 9. Said [chapter 6A](#), as amended by [section 552 of chapter 26 of the acts of 2003](#), is hereby further amended by striking out section 17C and inserting in place thereof the following section:-

Section 17C. The division of industrial accidents and all other state agencies within said division are hereby declared to be within the department of labor and workforce development, but shall not be subject to the jurisdiction thereof.

Nothing in this section shall be construed as conferring any power or imposing any duties upon the director of labor and workforce development with respect to the foregoing agencies except as expressly provided by law.

#### *Reunification of Labor and Workforce Development*

SECTION 10. Said [chapter 6A](#), as amended by [section 553 of chapter 26 of the acts of 2003](#), is hereby further amended by striking section 17D and inserting in place thereof the following section:-

Section 17D. The labor relations commission, insofar as it includes divisions, boards, commissions, committees, and sections subject to its direction and jurisdiction, is hereby declared to be within the department of labor and workforce development, but in no respect subject to the jurisdiction thereof. Nothing in this section shall be construed as conferring any powers or imposing any duties upon the director of labor and workforce development with respect to the foregoing agencies except as expressly provided by law.

#### *Alcoholic Beverage Control Commission Transfer to Public Safety*

SECTION 11. [Section 18 of said chapter 6A](#), as appearing in the 2002 Official Edition, is hereby amended by inserting after the word "vehicles;" in line 3, the following:- alcoholic beverage control commission;.

*Alcoholic Beverage Control Commission Transfer to Public Safety*

SECTION 12. [Section 18A½ of said chapter 6A](#), as amended by [section 22 of chapter 26 of the acts of 2003](#), is hereby further amended by inserting after the word "laboratory," in the second paragraph, the following:- alcoholic beverage control commission,.

*Emergency Telecommunications Program Funding*

SECTION 13. Said [chapter 6A](#) of the General Laws is hereby amended by striking out section 18H as added by [section 1 of chapter 239 of the acts of 2002](#), and inserting in place thereof the following section:-

Section 18H½. (a) The department of telecommunications and energy shall promulgate rules providing for the recovery by telecommunications companies of expenses that have been, are, or will be, until December 31, 2007, incurred that are associated with the services pursuant to sections 18A to 18F, inclusive, of this chapter and [sections 14A and 15E of chapter 166](#). With respect to any deficit incurred by the telephone companies before the effective date of this section, the department of telecommunications and energy shall determine the portion of directory assistance revenues that will be used to offset that deficit, including any interest the department may determine should be applied. The rules shall provide for the funding of the prudently incurred expenses by means of a charge on each voice grade exchange telephone line of business and residence customers within the commonwealth; but the surcharge applicable to centrex service shall be based on an equivalency provided to each private branch exchange trunk. In the development of the charge, all telephone companies shall submit to the department historical data verifying their participation in the statutory funding mechanism. The department of telecommunications and energy shall annually report to the general court concerning the financial condition of the fund and shall address in the report the reasonableness of the capital expenditures and related expenses of the statewide emergency telecommunications board incurred in complying with [chapter 166](#), sections 14A and 15E.

b) Each telecommunication company shall remit the surcharge revenues collected from its subscribers to the state treasurer for deposit in the Wireline Enhanced 911 Fund established in [section 35W½ of chapter 10](#). The surcharge revenues shall be used by the board for the recovery by the board and telecommunications companies of expenses that have been, or will be, incurred in complying with sections 18A to 18F, inclusive, of this chapter and sections 14A and 15E of chapter 166.

*Oversight Authority - Information Technology Projects*

SECTION 14. Subsection (d) of [section 4A of chapter 7](#) of the General Laws, as so appearing, is hereby amended by inserting at the end of the first paragraph the following sentence:- Any planned information technology development project or purchase by any agency under the authority of the governor for which the total projected cost exceeds \$200,000, including the cost of any related hardware, software, or consultant fees, shall be reviewed and approved by the chief information officer before such agency may obligate funds for such project or purchase. The chief information officer may establish such rules and

procedures as he deems necessary to implement the provisions of this paragraph.

*Civil Service Commission Administration*

SECTION 15. [Section 41 of said chapter 7](#), as amended by [section 4 of chapter 46 of the acts of 2003](#), is hereby further amended by inserting after the third sentence of the second paragraph the following new sentences:- The chairman shall be the executive and administrative head of the commission, and shall have the authority and responsibility for directing assignments of members of said commission and shall be the appointing authority for commission staff. The chairman shall, subject to appropriation, establish such staff positions and employ such administrative, research, technical, legal, clerical and other personnel and consultants as may be necessary to perform the duties of said commission.

*Reform of Outsourcing Limitations*

SECTION 16. Paragraph (1) of [section 54 of said chapter 7](#), as so appearing, is hereby amended by striking the following:- , and shall be transmitted to the state auditor for review pursuant to section fifty-five.

*Reform of Outsourcing Limitations*

SECTION 17. Paragraph (2) of said [section 54 of said chapter 7](#), as so appearing, is hereby repealed.

*Reform of Outsourcing Limitations*

SECTION 18. Paragraph (4) of said [section 54 of said chapter 7](#), as so appearing, is hereby amended by striking the first two sentences and inserting in place thereof the following sentences:- The agency shall prepare a comprehensive written estimate of the actual costs of regular agency employees providing the subject services. The estimate shall include all direct and indirect costs of regular agency employees providing the subject services, including but not limited to, pension, insurance and the costs of other employee benefits, capital costs, and overhead.

*Reform of Outsourcing Limitations*

SECTION 19. Paragraph (6) of said [section 54 of said chapter 7](#), as so appearing, is hereby amended by striking the last sentence.

### *Reform of Outsourcing Limitations*

SECTION 20. Said [chapter 7](#), as so appearing, is hereby further amended by striking section 55 and inserting in place thereof the following section:-

Section 55. An agency shall not make any privatization contract and no such contract shall be valid if, within 30 days after receiving the certificate required by section 54, the state auditor notifies the agency of his objection. Such objection shall be in writing and shall state specifically the state auditor's finding that the agency has failed to substantially comply with the process of said section 54 or that the agency's findings are clearly erroneous.

### *Inspector General Transfer to Comptroller*

SECTION 21. [Chapter 7A](#) of the General Laws is hereby amended by inserting after section 18 the following four sections:-

Section 19. The comptroller shall act to prevent and detect fraud, waste and abuse in the expenditure of public funds, whether state, federal, or local, or relating to programs and operations involving the sections, departments, offices, commissions, institutions, and activities of the commonwealth, including those districts, authorities, instrumentalities or political subdivisions created by the general court and including cities and towns.

Section 20. The comptroller may supervise, coordinate, and conduct audits and investigations when necessary, relating to programs and operations described in section 19. He shall review legislation and regulations relating to programs and operations described in said section 19 herein and shall make recommendations concerning the effect of such legislation or regulation on the prevention and detection of fraud, waste and abuse. He may recommend policies which will assist in the prevention or detection of fraud, waste or abuse. The person in charge of, or the governing body of any public body described in said section 19, may request the assistance of the comptroller with respect to implementation of any suggested policy. In that event the comptroller may assign personnel to conduct, supervise, or coordinate such activity. He may recommend policies for the conduct, supervision or coordination of relationships between state and county agencies and other state and local government agencies and federal agencies and nongovernmental entities with respect to all matters relating to the prevention and detection of fraud, waste and abuse in or relating to programs and activities described in said section 19.

Section 21. (a) The comptroller may receive and investigate complaints or information from any public employee concerning the possible existence of any activity constituting fraud, waste and abuse in or relating to programs and operations described in section 19 herein.

(b) The comptroller shall not, after receipt of a complaint or information from an employee, disclose the identity of the employee without written consent of said employee, unless the comptroller determines such disclosure is necessary and unavoidable during the course of the investigation. In such event, the employee shall be notified in writing at least seven days prior to such disclosure.



(c) Any employee who has authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority, take or threaten to take any action against any employees as a reprisal for making a complaint or disclosing information to the comptroller, unless the complaint was made or information disclosed with the knowledge that it was false or with willful disregard of its truth or falsity.

Section 22. In carrying out his duties and responsibilities, the comptroller shall report to the attorney general, the United States Attorney, or both, whenever the comptroller has reasonable grounds to believe there has been a violation of federal or state criminal law. Said attorney general shall institute appropriate further proceedings.

The comptroller shall refer audit or investigative findings to the state ethics commission, or to any other federal, state, or local agency that has an interest in said findings. Any referrals made under this section shall not be made public.

In any case where the comptroller has discovered fraudulent acts and believes that civil recovery proceedings may be appropriate, he shall refer the matter to the attorney general. The attorney general may institute whatever proceedings he deems appropriate, may refer the matter to another state or local agency, may retain the matter for further investigation, or may remand the matter to the comptroller for further investigation.

#### *Inspector General Transfer to Comptroller*

SECTION 22. Subsection (a) of [section 2 of chapter 7B](#) of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by striking out, in line 5, the words "the inspector general" and inserting in place thereof the following:- the comptroller.

#### *Board of Registration in Medicine Trust Fund*

SECTION 23. [Section 35M of chapter 10](#) of the General Laws, as so appearing, is hereby amended by striking the second and third sentences and inserting in place thereof the following sentences:- One hundred per cent of the revenues collected by said board shall be deposited into said trust fund. All monies deposited into said fund shall be expended exclusively by the board for its operations and administration.

#### *Emergency Telecommunications Program Funding*

SECTION 24. Said [chapter 10](#), as so appearing, is hereby amended by inserting after section 35W the following new section:-

Section 35W½. There is hereby established and set up on the books of the commonwealth a separate fund to be known as the Wireline Enhanced 911 Fund. There shall be credited to such fund all revenues received by the commonwealth from surcharges imposed under [section 18H½ of chapter 6A](#); from appropriations;

from gifts, grants, contributions and bequests of funds from any department, agency or subdivision of federal, state or municipal government, and any individual foundation, corporation, association or public authority; revenue derived from the investment of amounts credited to the fund; and any federal funds made available for emergency telecommunication services. The fund shall be used solely for the purposes described in said [section 18H½ of said chapter 6A](#). Amounts credited to the fund shall be available for expenditure by the statewide telecommunications board, without further appropriation.

*Quality in Health Professions Trust Fund*

SECTION 25. Subsection (a) of [section 35X of said chapter 10](#), as so appearing, is hereby amended by striking the second sentence and inserting in place thereof the following sentence:- The fund shall consist of 100 per cent of the fee revenue collected by the various boards serving within the department under [section 9 of chapter 13](#) excluding the board of registration in medicine.

*Quality in Health Professions Trust Fund*

SECTION 26. Subsection (a) of said [section 35X of said chapter 10](#), as so appearing, is hereby amended by striking out the seventh sentence.

*Alcoholic Beverage Control Commission Transfer to Public Safety*

SECTION 27. Sections 70, 71, and 72, inclusive, of [chapter 10](#) of the General Laws, as inserted by [section 48 of chapter 26 of the acts of 2003](#), are hereby repealed.

*Inspector General Transfer to Comptroller*

SECTION 28. Subsection (13) of [section 5N of chapter 12](#) of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by striking out, in line 130, the words "inspector general" and inserting in place thereof the following:- comptroller.

*Inspector General Transfer to Comptroller*

SECTION 29. [Chapter 12A](#) of the General Laws is hereby repealed.



*Division of Professional Licensure Oversight*

SECTION 30. [Chapter 13](#) of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by inserting after section 9B the following new section:-

Section 9C. The member of each board of registration shall be immune from liability for actions taken in good faith in the discharge of his responsibilities, and shall be indemnified with respect to liability for intentional torts and liability by reason of any act or omission which constitutes a violation of the civil rights of any person, to the same extent as a public employee.

*Legacy of Learning - Adams Scholarship Program*

SECTION 31. [Section 16 of chapter 15A](#) of the General Laws, as so appearing, is hereby amended by inserting after the ninth paragraph the following paragraph:-

There shall be a John and Abigail Adams Scholarship Program, administered by the Board of Higher Education, providing for four years of tuition at the University of Massachusetts or at any of the nine state and 15 community colleges to students whose Massachusetts Comprehensive Assessment System (MCAS) scores by the end of their junior year rank in the top 25 per cent of those taking the test; and, in addition, those students in the top 10 per cent shall receive a waiver for \$2,000 to offset the cost of campus fees. Those students awarded tuition must complete their college studies in four years or less and maintain at least a 3.0 grade point average. Those students awarded tuition plus the \$2,000 fee waiver must complete their college studies in four years or less and maintain at least a 3.3 grade point average. The Board of Higher Education shall establish guidelines relating to the program, including an audit procedure to ensure that institutions are in compliance with such guidelines. The Board of Higher Education shall verify the amount of tuition and fee revenue, as applicable, that should be reimbursed to campuses for students participating in the program. Said amount for the John and Abigail Adams Scholarship Program shall be subject to appropriation.

*Transfer of Parkway Operation and Maintenance*

SECTION 32. [Chapter 16](#) of the General Laws, as so appearing, is hereby amended by inserting after section 3A the following new section:-

Section 3B. (a) There shall be in the department a bureau of parkways. The bureau shall be responsible for the maintenance and operation of parkways, boulevards and bridges under the care, custody and control of the division of urban parks and recreation within the department of conservation and recreation, and any other parkways, as designated by the secretary of environmental affairs subject to one or more memoranda of understanding that may address, but not be limited to, street lighting and related appurtenances. The commissioner of highways, with the approval of the secretary of transportation and construction, may appoint and remove a deputy commissioner for parkways without regard to [chapter 31](#) to manage the

bureau of parkways who shall report to the commissioner. The commissioner shall assign powers and duties to the deputy commissioner.

(b) The bureau shall be responsible, at a minimum, for the removal of snow and ice from parkways. The commissioner of highways shall assign sufficient staff to accomplish the bureau's goals and objectives. Nothing in this section shall prohibit the use of department of highways personnel not assigned to the bureau of parkways for maintenance and operation of parkways in addition to other responsibilities which shall be set forth in the memoranda of understanding.

(c) The bureau shall develop standards to address the maintenance and operation of the parkways and any other issues not specifically addressed in this section but necessary to effectuate the intent of this section. The standards shall be memorialized in a memorandum of understanding to be approved by the secretaries of transportation and construction and environmental affairs. The standards shall include, but not be limited to, ones governing design, engineering, construction and maintenance of the parkways and shall protect the distinctive and historic characteristics of the parkway system. Until the final standards are developed and approved, the bureau shall use existing standards of the division of urban parks and recreation within the department of conservation and recreation for the design, engineering, construction and maintenance of parkways. The bureau shall not widen or straighten any parkways, unless otherwise authorized by the general court.

(d) The department shall not permit trucks and hazardous materials on parkways, boulevards and roadways, which are excluded from parkways, boulevards and roadways by the division of urban parks and recreation within the department of conservation and recreation unless otherwise authorized by the general court.

(e) This section shall not be construed to repeal, diminish or limit any authority, right, or limitation on liability, granted to the division of urban parks and recreation within the department of conservation and recreation by sections 35, 35A, 36, 37, 49, 69, 80, 85, 88, 98, and 106 of [chapter 92](#), beyond any authority or right granted to the bureau of parkways for maintenance and operation.

### *Shelter to Housing Program*

SECTION 33. Subsection (D) of [section 2 of chapter 18](#) of the General Laws, as so appearing, is hereby amended by striking out all provisions in lines 94 through 133 inclusive, and inserting in place thereof the following:-

Subject to appropriation, the department shall administer a program of emergency assistance to needy families with children and pregnant women with no other children. A needy family shall be eligible for assistance only if its income is at or below 100 per cent of the federal poverty level. The department is authorized to provide emergency shelter for homeless families. The department shall promulgate rules and regulations to establish eligibility requirements, services and level of benefits available under the program, and shall amend such rules and regulations as necessary to ensure that expenditures under the emergency assistance program do not exceed the level of funds appropriated for the program during the fiscal year.

The department may, in its discretion, develop and implement pilot programs designed to improve the effectiveness of its programs serving homeless families and individuals. The department shall convert the scattered-site housing model to one where adult family members shall participate in work-related activities and the maximum length of stay shall be limited, as defined by the department in regulation. The department may also use funds appropriated to the accounts for homeless families or individuals to pay for

supportive services to these families or individuals, including services provided under the employment services program.

*Food Stamp Benefits - Prohibited Activities and Penalties*

SECTION 34. Said [chapter 18](#), as so appearing, is hereby amended by inserting after section 5H the following new section:-

Section 5I. (a) Whoever knowingly uses, acquires, alters, or transfers food stamp coupons, authorizations to participate in the food stamp program, food stamp electronic access devices, or food stamp benefits in any other form or medium, in any manner not authorized by law shall be guilty of an offense under this section. If the value of the food stamp benefits illegally used, acquired, altered or transferred exceeds \$250, violation of this section shall be punished by imprisonment in the state prison for not more than 5 years, or by a fine of not more than \$25,000 and imprisonment in jail for not more than two years. If the value of the food stamp benefits illegally used, acquired, altered or transferred does not exceed \$250, violation of this section shall be punished by imprisonment in jail for not more than one year or by a fine of not more than \$300.

(b) Whoever knowingly possesses food stamp coupons, authorizations to participate in the food stamp program, food stamp electronic access devices, or food stamp benefits in any other form or medium, when not authorized by law to possess them, knowingly redeems food stamp benefits when not authorized to redeem them, or knowingly redeems food stamp benefits for purposes not authorized by law, shall be guilty of an offense under this section.

(c) Whoever knowingly possesses blank authorizations to participate in the food stamp program, blank food stamp electronic access devices or any other form or medium by which food stamp benefits are provided, when not authorized by law to possess them, shall be guilty of an offense under this section.

(d) When food stamp coupons, authorizations to participate, food stamp electronic access devices, or food stamp benefits in any other form or medium are obtained in violation of this section pursuant to one scheme or continuing course of conduct, whether from the same or several sources, the conduct may be considered as one offense and the values aggregated in determining the amount of the offense. Violations of this section involving blank or altered food stamp coupons, authorizations to participate, food stamp electronic access devices, or other form or media used to provide food stamp benefits shall give rise to a rebuttable presumption that the offense exceeds \$250 in value of food stamp benefits for the purpose of determining the severity of the offense.

*Department of Environmental Protection Fund*

SECTION 35. Subsection (d) of [section 18 of chapter 21A](#) of the General laws, as so appearing, is hereby amended by inserting after clause (5) the following new clauses:-

(6) Notwithstanding the requirements of clauses (1) through (4), the department and a permit applicant may agree upon appropriate fees, related funding and schedules for projects meeting the criteria in clauses (1) and (2) or for projects determined by the commissioner to be of significant environmental interest to the commonwealth or that are consistent with sustainable development principles. With input from the advisory committee the department shall establish guidelines for the implementation of this subsection,

including ensuring consideration of the allocation of department permitting resources and whether the project serves a significant public interest, and offers opportunities to restore, protect, conserve or enhance natural resource. All amounts received by the department for said projects shall be deposited in the fund established in clause (7) and may expended by the department in accordance with the requirements of clause (7).

(7) There shall be established and set up on the books of the commonwealth a separate trust to be know as the department of environmental protection's Special Projects Permitting and Oversight Fund. There shall be credited to the fund all amounts received by the department from permit applicants for projects identified in clause (6). All amounts credited to the fund may be expended by the department without further appropriation for the purpose of permitting, technical assistance, compliance, other related activities associated with said projects, including all direct and indirect costs of department personnel or contractors. With agreement of the project applicants, any amount credited to the fund in excess of the amount expended to complete the department's permitting, technical assistance, compliance, or other related activities associated with said projects, may be retained in the fund. Such funds may be expended by the department to support projects in economically distressed areas. An economically distressed area is an area or municipality that has been designated as an economic target area, or that would otherwise meet the criteria for such designation pursuant to [section 3D of chapter 23A](#). The department's expenditure of said amounts shall be in accordance with relevant state law applicable to the expenditure and record keeping of state funds and shall be subject to audit by the state auditor.

#### *Hazardous Waste Response*

SECTION 36. [Section 3A of chapter 21E](#) of the General Laws, as so appearing, is hereby amended by striking out subsection (o) and inserting in place thereof the following subsection:-

(o) The department shall audit a statistically significant representative sample of all sites, for which an annual compliance assurance fee is required to be paid pursuant to section 3B, determined by the department to be of a scope and character to reasonably ensure that response actions are performed in compliance with the provisions of this chapter and the Massachusetts contingency plan. In addition, the department may establish other audit targets or approaches for categories of persons or response actions or sites, as defined pursuant to subsection (d) of section 3, based on the department's determination of proper level of oversight for each category.

#### *Hazardous Waste Response*

SECTION 37. [Section 3B of said chapter 21E](#), as so appearing, is hereby amended by striking the third paragraph and inserting in place thereof the following paragraph:-

Notwithstanding the provisions of any general or special law to the contrary, the department may, by regulation, establish annual compliance assurance fees for sites or vessels, payable by all persons, excluding agencies of the commonwealth, who are, or are required to be, performing response actions at such sites or vessels, or who have been notified by the department that they are potentially liable for such sites or vessels pursuant to section 5, for each year or fraction thereof in which such response actions are performed or required to be performed, from the time that notice is first required to be given to the

department pursuant to section 7 until the time that a level of no significant risk has been achieved in accordance with subsection (g) of section 3A; provided, further, that such fees shall not apply to sites or vessels for which a level of no significant risk has been achieved within a short duration in response to a sudden release or threat of release of oil or hazardous material. Such fees shall be based on the department's cost for inspection, auditing, enforcement and compliance activities.

*Hazardous Waste Response*

SECTION 38. Said [section 3B of said chapter 21E](#), as so appearing, is hereby further amended by striking out, in line 49, the words "carrying out such response action" and inserting in place thereof the following:-  
owing such fee.

*Hazardous Waste Response*

SECTION 39. Said [section 3B of said chapter 21E](#), as so appearing, is hereby further amended by striking out, in lines 74 and 75, the following words:- for those response actions at or.

*Department of Public Safety Name Change*

SECTION 40. [Chapter 22](#) of the General Laws, as so appearing, is hereby amended, by striking section 1 and inserting in place thereof the following section:-

Section 1. There shall be a department of inspection and regulation under the supervision and control of a commissioner of inspection and regulation.

*Elevator Inspector Line of Duty Injury Pay*

SECTION 41. [Sections 7A and 7B of chapter 22](#) of the General Laws, as so appearing, is hereby repealed.

*Department of Public Safety Name Change*

SECTION 42. [Section 10A of said chapter 22](#), as so appearing, is hereby amended by striking out, in lines 1, 4 and 22, the words "public safety" and inserting in place thereof the following:- inspection and regulation.

*Department of Public Safety Name Change*

SECTION 43. [Section 11A of said chapter 22](#), as so appearing, is hereby amended by striking out, in line 1, the words "public safety" and inserting in place thereof the following:- inspection and regulation.

*Department of Public Safety Name Change*

SECTION 44. [Section 13A of said chapter 22](#), as so appearing, is hereby amended by striking out, in line 1, the words "public safety" and inserting in place thereof the following: - inspection and regulation.

*Department of Public Safety Name Change*

SECTION 45. [Section 15B of said chapter 22](#), as so appearing, is hereby amended striking out, in line 1, the words "public safety" and inserting in place thereof the following:- inspection and regulation.

*Department of Public Safety Name Change*

SECTION 46. [Section 20 of said chapter 22](#), as so appearing, is hereby amended by striking out, in line 1, the words "public safety" and inserting in place thereof the following:- inspection and regulation.

*Alcoholic Beverage Control Commission Transfer to Public Safety*

SECTION 47. The General Laws are hereby amended by inserting after [chapter 22E](#) the following chapter:-

CHAPTER 22F

THE ALCOHOLIC BEVERAGES CONTROL COMMISSION

Section 1. There shall exist within the executive office for public safety a commission to be known as the alcoholic beverages control commission, to consist of a commissioner and two associate commissioners appointed by the governor. Not more than two members shall be members of the same political party. The commissioner and one associate commissioner shall serve terms coterminous with that of the governor. One associate commissioner shall serve a four year term. The commissioner shall serve as chairman. The commission members shall devote their full time during business hours to their official duties. The positions of commissioner and associate commissioners shall be classified in accordance with [section 45 of chapter 30](#) and the salaries shall be determined in accordance with [section 46C of said chapter 30](#). Any vacancy may be filled in like manner for the remainder of the unexpired term. Members of the commission shall serve at the pleasure of the governor and may be removed without cause. Two members shall constitute a



quorum for the purpose of conducting the business of the commission. A vacancy shall not impair the right of the remaining members to exercise the powers of the commission. The commissioner, pursuant to [section 14 of chapter 17](#), shall serve as a member of the advisory council on alcoholism.

Section 2. The chairman may appoint and remove a secretary and expend for other clerical assistants pursuant to [section 45 of chapter 6](#). The chairman may appoint a confidential secretary pursuant to [section 7 of chapter 30](#). The chairman may appoint investigators who shall be exempt from [chapter 31](#), for the purpose of enforcing or causing to be enforced the penalties provided for by law against any person in violation of the provisions of this chapter or [chapter 138](#). Each person employed as an investigator shall meet minimum qualifications established by the secretary of public safety and shall complete a basic training and safety course as approved by said secretary. Investigators shall not carry firearms in connection with their duties under this chapter.

Section 3. The commission shall have the following responsibilities:

- (1) issuing licenses, suspending licenses, reviewing appeals and revoking licenses pursuant to sections 12, 13, 15A, 17, 18, 18A, 19, 19A, 19B, 19C, 19D, 20, 22A, 23, 23A, 64, 67, 70, 76 of [chapter 138](#);
- (2) establishing conditions for the destruction of certain alcoholic beverages pursuant to [section 2 of chapter 138](#);
- (3) receiving annual reports from local licensing authorities pursuant to [section 10A of chapter 138](#);
- (4) authorizing vacancy of members of local licensing boards pursuant to [section 10B of chapter 138](#);
- (5) issuing certificates of compliance to export licensees pursuant to [section 18B of chapter 138](#);
- (6) issuing permits to store and warehouse beverages pursuant to [section 20A of chapter 138](#);
- (7) issuing permits for vehicles to transport and deliver alcoholic beverages pursuant to [section 22 of chapter 138](#);
- (8) promulgating regulations for issues regarding alcoholic beverages pursuant to [section 24 of chapter 138](#);
- (9) posting of names of delinquent licensees pursuant to [section 25 of chapter 138](#);
- (10) establishing schedules for sale of alcoholic beverages sold to wholesaler in the commonwealth pursuant to [section 25B of chapter 138](#);
- (11) promulgating rules regarding the resale price of beverages pursuant to [section 25C of chapter 138](#);
- (12) promulgating and enforcing rules regarding price discrimination pursuant to [section 25D of chapter 138](#);
- (13) establishing rules for the sale of alcoholic beverages to churches, hospitals and other organizations pursuant to [section 28 of chapter 138](#);
- (14) preparing and distributing posters to businesses regarding the sale of alcoholic beverages to minors pursuant to [section 34A of chapter 138](#);
- (15) arresting without a warrant any person illegally manufacturing or selling alcoholic beverages pursuant to [section 56 of chapter 138](#);
- (16) entering premises to ascertain manner of business of licensees pursuant to [section 63 of chapter 138](#); and,
- (17) receiving reports from bottle distributors regarding the amount received from deposits pursuant to [section 323 of chapter 94](#).

Section 4. The commission shall submit to the governor and to the general court as soon as may be feasible

after the end of eachstate fiscal year a full report of its actions and of the conduct and condition of traffic in alcoholic beverages during such year, together with recommendations for such legislation as it deems necessary or desirable for the better regulation and control of such traffic and for the promotion of temperance in the use of such beverages.

Section 5. The chairman, with the approval of the secretary of public safety, may designate any permanently appointed municipal police officer with powers and duties set forth in [section 98 of chapter 41](#) and who is trained pursuant to [section 96B of chapter 41](#), as a special alcohol beverage control officer. Special alcohol beverage control officers shall have all the authority of commission investigators to enforce the provisions of this chapter and [chapter 138](#).

### *Reunification of Labor and Workforce Development*

SECTION 48. [Chapter 23](#) of the General Laws, as amended by [section 554 of chapter 26 of the acts of 2003](#), is hereby further amended by striking sections 1 through 4 inclusive, and inserting in place thereof the following sections:-

Section 1. (a) Within the executive office of economic development, there shall be a department of labor and workforce development, in this chapter called the department. The mission of the department shall be to ensure the efficient operation of agencies, which promote harmonious relations between employers and employees and the general welfare of workers and to develop, coordinate, and maintain a coherent workforce development system that fills the needs of employers for a skilled workforce and promotes lifelong learning among employees. All state departments, boards, commissions, and quasi-public entities and authorities shall cooperate and coordinate with the department in all activities involving workforce development to achieve this goal.

(b) Subject to appropriation, the department shall be provided with such offices in Boston and elsewhere in the commonwealth as may be approved by the governor and may expend sums for other necessary expenses of said department. Said department may accept gifts or grants of money or property, whether real or personal, from any source, public or private, including, but not limited to, the United States of America or its agencies, for the purpose of assisting the departments in the discharge of their duties.

Section 2. (a) The director shall be the executive and administrative head of the department and shall be responsible for administering and enforcing the laws relative to the department and to each administrative unit thereof.

(b) The director shall be appointed by the governor, in conjunction with the secretary, for a term coterminous with the governor and shall not be subject to [chapter 31](#) or [section 9A of chapter 30](#). Upon expiration of the term of office of the director or in the event of a vacancy, the governor shall appoint a successor for a term coterminous with the governor. The director shall devote his full time during business hours to the duties of his office.

(c) The director shall receive such salary as the governor shall determine, provided that such salary shall be equivalent to the salary received by the director of business and technology, director of labor and workforce development, or the director of consumer affairs and business regulation.

Section 3. (a) Within the department, there shall be the following agencies and divisions: the division of industrial accidents, the board of conciliation and arbitration, the state labor relations commission, the joint



labor-management committee, the division of occupational safety, the division of unemployment assistance, the one-stop career centers, the state workforce investment board, the division of apprentice training, the division of career services, the commonwealth corporation, and the workforce training fund. The division of apprentice training shall administer the provisions of sections 11E to 11W, inclusive of [chapter 23](#), the division of career services shall administer the provisions of section 25 of this chapter, and the other divisions shall administer provisions as the director deems necessary to administer and to enforce the department's obligations. The Commonwealth Corporation shall cooperate with the department where appropriate, and as approved by the secretary and in consultation with the director and the president of the Commonwealth Corporation.

(b) The duties of the department shall include, and the department shall have authority and responsibility over, the administration and enforcement of section 3, 5, 9H and 11A; the provisions of [chapter 111F](#); the provisions of [chapters 149](#), with the exception of section 160 to 168A, and 151; the provisions of [chapter 151A](#); and the provisions of subsections (b), (c), (e) and (f) of [section 197B of chapter 111](#). Notwithstanding any general or special law to the contrary, the attorney general shall have exclusive authority to conduct field investigations, inspections, and civil and criminal prosecutions with respect to, and otherwise enforce, said [chapters 149](#) and laws pertaining to wages, hours and working conditions, child labor and workplace safety and fair competition for bidders on public construction, except the laws pertaining to lead and asbestos hazards and workplace hygienic standards which the department shall enforce.

(c) The division of industrial accidents, the labor relations commission, the joint labor-management committee, and the board of conciliation shall not be subject to the jurisdiction of the department of labor and workforce development, except to the extent of compliance with reasonable requests from the director for the sharing of information which does not interfere with the efficient and independent functioning of the offices, divisions or agencies.

(d) The following funds shall be within the division of unemployment assistance: the Unemployment Insurance Trust Fund and the Medical Security Trust Fund.

Section 3A. There shall be a surcharge on fees assessed by the division of occupational safety within the department of labor and workforce development for the licensure, registration or certification of certain professionals, and on fees assessed for the renewal or duplication of such licenses, registrations or certifications, in accordance with the provisions of this section. The amount of the surcharge shall be as follows: a \$25 annual surcharge to those persons licensed or certified individually by the division of occupational safety to perform deleading services; a \$25 annual surcharge to those persons licensed or certified individually by the division of occupational safety to perform asbestos abatement services; a \$50 annual surcharge to those persons licensed or certified on behalf of corporate and other classifications of businesses by the division of occupational safety to perform deleading services; a \$50 annual surcharge to those persons licensed or certified on behalf of corporate and other classifications of businesses by the division of occupational safety to perform asbestos abatement services; a \$50 annual surcharge to those persons licensed or certified by the division of occupational safety to provide asbestos abatement analytical services; a \$50 annual surcharge to those persons licensed or certified by the division of occupational safety to provide asbestos abatement training; a \$50 annual surcharge to those persons licensed or certified by the division of occupational safety to provide deleading training; and a \$50 annual surcharge to those persons licensed or registered to operate an employment agency as defined by [section 46A of chapter 140](#). Said surcharges shall be collected by the division of occupational safety and transmitted to the treasurer for deposit into the General Fund.

Section 4. The director may employ, for periods not exceeding 90 days, such experts as may be necessary

to assist the department in the performance of any duty imposed upon it by law, and such employment shall be exempt from [chapter 31](#). Except as otherwise provided, the director may employ and remove such inspectors, investigators, clerks and other assistants as the work of the department may require. Such number of inspectors as the commissioner may deem necessary shall be persons who, before their employment as such, have had at least 3 years' experience as building construction workmen. The commissioner may require that certain inspectors in the department, not more than 7 in number, shall be persons qualified by training and experience in matters relating to health and sanitation. All inspectors and other permanent employees of the department shall devote their full time to the affairs of the department. All directors and inspectors and such other employees as may be designated by the commissioner shall, before entering upon their duties, be sworn to the faithful performance thereof. The number of inspectors heretofore authorized by law may be increased only with the approval of the governor and the council.

*Reunification of Labor and Workforce Development*

SECTION 49. [Section 9J of said chapter 23](#), as amended by [section 555 of chapter 26 of the acts of 2003](#), is hereby further amended by striking the first sentence and inserting in place thereof the following two sentences:- The secretary, in consultation with the director of labor and workforce development, may adopt, amend, alter or repeal, and shall enforce, all rules, regulations and orders as may be necessary or suitable for the administration and enforcement of [chapter 151A](#). The director shall seek the approval of the director of labor and workforce development where said changes may affect the operations of the free public employment offices.

*Reunification of Labor and Workforce Development*

SECTION 50. [Chapter 23](#) of the General Laws is hereby amended by inserting at the end thereof the following new sections:-

Section 25. (a) The director of labor and workforce development shall administer the system of free public employment offices established in [sections 160 through 168A of chapter 149](#), through the division of career services.

(b) Said division shall have control of the establishment, maintenance and operation of free public employment offices of the commonwealth. The Massachusetts rehabilitation commission shall cooperate with the division in the placement of handicapped persons under the provisions of [section 81 of chapter 6](#).

(c) The department shall be the state agency for co-operation with the United States Employment Service under [chapter 49](#) of the acts of the 73rd Congress, session I, known as the Wagner-Peyser Act, and shall have all the powers of such an agency as specified in said act. The director shall assure that all information secured as an incident to the public employment service program is used solely for the purpose of administering the commonwealth system of public employment offices as part of a national system of public employment offices, except that such information may be disclosed for other purposes in accordance with policies promulgated by the deputy director of employment security, provided that such disclosure will not impede the operation of or be inconsistent with the purposes of the public employment service program, or where such disclosure is otherwise authorized or required by law. Whoever discloses such information

other than as required or authorized by law shall be subject to the penalty set forth in [section 46 of chapter 151A](#).

(d) The director, in consultation with the secretary, shall divide the commonwealth into employment districts. Subject to appropriation, he may establish and maintain such additional free public employment offices as he may find necessary. The director may contract with one-stop operators, certified in accordance with the provisions of Public Law 105-220, to provide such offices and shall have all the powers of such an agency as specified in said act. In addition, the director shall consult with the deputy director of the division of unemployment assistance to determine the share of the capital and operating expenses of said offices necessary or convenient for the proper administration of [chapter 151A](#). The division of unemployment assistance shall reimburse the department for said share. Said offices shall be available for the payment of benefits, presentation of claims, registration of the unemployed, action to procure employment for the unemployed, and for the proper administration of [chapter 151A](#).

Section 26. (a) Subject to appropriation, the director of labor and workforce development shall make expenditures on workforce training grants for the following purposes:

(1) To provide grants to employers, employer groups, labor organizations and training providers for projects to provide education and training to existing employees and newly hired workers. In determining who shall receive grants, the director shall consider the following criteria:

- (i) whether the project will increase the skills of low-wage, low-skilled workers;
- (ii) whether the project will create or preserve jobs at wages sufficient to support a family;
- (iii) whether the project will have a positive economic impact on a region with high levels of unemployment or a high concentration of low-skilled workers;
- (iv) whether the employer has made a commitment to provide significant private investment in training during the duration of the grant and after the grant has expired;
- (v) whether the project will supplement, rather than replace, private investments in training;
- (vi) whether the employer is a small business that lacks the capacity to provide adequate training without such assistance;
- (vii) whether the project will provide residents of the commonwealth with training for jobs that could otherwise be filled only by residents of other nations; and
- (viii) whether the project is consistent with the workforce development blueprint prepared by the regional employment board.

Such grants shall be for amounts not to exceed \$1,000,000 until June 30, 2005 and thereafter shall be for amounts not to exceed \$250,000. Grants shall be for a term not to exceed 2 years.

(2) To provide technical assistance to increase training opportunities available to employees. The director may provide this direct technical assistance by using existing institutions such as workforce investment boards, community colleges, labor organizations, administrative entities under the federal Workforce Investment Act, Public Law 105-220, and other entities that have expertise in providing technical assistance regarding employee training or with employees of the department of labor and workforce development or of the corporation for business, work and learning. Such expenditures shall not exceed \$3,000,000 each year and the director shall demonstrate that each \$1 expended generates not less than \$5 in private investment in job training.

(b) The director shall adopt regulations, with the approval of the secretary, pursuant to [chapter 30A](#) to carry out this section.

(c) Not later than September 1 of each year, the director shall file a report in writing with the joint committee on commerce and labor and the house and senate committees on ways and means concerning the grants made in the fiscal year ending on the preceding June 30, together with such recommendations and additional information as the director considers appropriate.

(d) Documentary materials or data made or received by an employee of the department, to the extent that such materials or data consist of trade secrets or commercial or financial information regarding the operation of a business conducted by an applicant for a grant from the fund established by this section, shall not be public records and shall not be subject to section 10 of chapter 66.

*Reunification of Labor and Workforce Development*

SECTION 51. [Section 3B of chapter 23A](#) of the General Laws, as amended by [section 564 of chapter 26 of the acts of 2003](#), is hereby further amended by striking out in the second sentence the words "the director of labor, or his designee; and the director of workforce development or his designee" and inserting in place thereof the following:- the director of labor and workforce development, or his designee.

*Reunification of Labor and Workforce Development*

SECTION 52. [Chapter 23D](#) of the General Laws, as amended by [section 569 of chapter 26 of the acts of 2003](#), is hereby further amended by striking section 2 and inserting in place thereof the following:-

Section 2. A Massachusetts industrial service program shall be established in the executive office of economic development, under the joint supervision of the director of business and technology and the director of the department of labor and workforce development. The secretary, in consultation with the director of business and technology and the director of labor and workforce development, shall issue rules, regulations and procedures governing the application for and delivery of the services provided for in this section and sections 3 to 7, inclusive, and sections 24 to 26, inclusive, as necessary to carry out this chapter.

*Reunification of Labor and Workforce Development*

SECTION 53. [Chapter 23H](#) of the General Laws, as inserted by [section 571 of chapter 26 of the acts of 2003](#), is hereby repealed.

*Massachusetts Educational Financing Authority Authorization*

SECTION 54. [Section 6 of chapter 23H](#) of the General Laws, as inserted by [section 571 of chapter 26 of the acts of 2003](#), is hereby amended by inserting after subsection (c) the following new subsection:-

(d) The Massachusetts Educational Financing Authority is hereby authorized to provide direct loans upon guarantee consistent with its mandate and to act as an application and loan servicing agent for any funds

made available to it from other sources both public and private in order to fund loans coordinated through the one-stop career centers for training providers and programs outside its mandate.

*Alcoholic Beverage Control Commission Transfer to Public Safety*

SECTION 55. Clause (1) of subsection (b) of [section 1 of chapter 24A](#) of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by striking out the following words:- the alcoholic beverages control commission.

*Energy Efficiency Program Assessment*

SECTION 56. [Chapter 25A](#) of the General Laws is hereby amended by inserting after section 11G the following new section:-

Section 11H. (a) The division of energy resources is hereby authorized to make an assessment against each electric and gas utility company doing business in the commonwealth. This section does not apply to the municipally owned electric and gas companies.

(b) Such assessments shall be made to finance activities undertaken by the division in accordance with section 11G related to oversight and coordination of ratepayer funded programs for energy efficiency, energy conservation, and demand reduction programs.

(c) Such assessment shall be made at a rate as shall be determined and certified annually by the commissioner. From July 1, 2004 through December 31, 2004, the assessment shall be an amount equal to 0.375 per cent of the total annual mandatory charge collected by each utility company pursuant to [section 19 of chapter 25](#) in the case of electric companies, or 0.375 per cent of the efficiency budgets as approved by the department of telecommunications and energy or otherwise required by law in the case of gas companies, as applicable, in addition to the costs of fringe benefits and indirect costs as established by the commissioner of administration pursuant to [section 5D of chapter 29](#). Beginning January 1, 2005, the assessment shall be an amount equal to 0.75 per cent of the total annual mandatory charge collected by each utility company pursuant to [section 19 of chapter 25](#) in the case of electric companies, or 0.75 per cent of the efficiency budgets as approved by the department of telecommunications and energy or otherwise required by law in the case of gas companies, as applicable, in addition to the costs of fringe benefits and indirect costs as established by the commissioner of administration pursuant to [section 5D of chapter 29](#). The amount of such assessment may be increased by the commissioner annually by a rate not to exceed the most recent annual consumer price index as calculated for the northeast region for all urban consumers. Assessments made under this section shall be charged by the utility companies against the revenues so collected pursuant to [section 19 of chapter 25](#) or as approved by the department of telecommunications and energy or otherwise required by law, as applicable, and reduced by the amount of assessment charged to each utility pursuant to subsection (e) of section 7 of chapter 465 of the acts of 1980, as amended. Each company shall pay the amount assessed against it within 30 days after the date of the notice of assessment from the division. Such assessments shall be collected by the division and credited to the Division of Energy Resources Assessment Trust Fund.

(d) There shall be established upon the books of the commonwealth a separate fund to be known as the

Division of Energy Resources Assessment Trust Fund. There shall be credited to said fund all amounts collected pursuant to this section and any income derived from the investment of amounts credited to the fund. All amounts credited to the fund shall be held in trust and available for expenditure, without further appropriation, by the division of energy resources, for activities of the division related to the oversight and coordination of ratepayer-funded programs for energy efficiency, energy conservation, and demand reduction programs; provided, that in fiscal year 2005, the expenditure shall not exceed \$400,000. Any unexpended balance in the fund at the close of a fiscal year shall remain in the fund and shall be available for expenditure in the following fiscal year.

### *Energy Related Allowances and Credits*

SECTION 57. [Chapter 25A](#) of the General Laws, as so appearing, is hereby amended by inserting at the end thereof the following new section:-

Section 13. (a) Notwithstanding the provisions of any general or special law to the contrary, the division may apply for, receive, retain, redeem, sell or transfer any energy conservation credits, renewable energy certificates or credits, emissions credits, or energy reduction allowances earned or received by the commonwealth including but not limited to allowances awarded through the public benefit set-aside provisions of the NOx Allowance Trading Program implemented by the department of environmental protection.

(b) There shall be established upon the books of the commonwealth a separate fund to be known as the Division of Energy Resources Credit Trust Fund. There shall be credited to said fund all amounts received through the redemption or sale of such certificates, credits and allowances specified in this section and any income derived from the investment of amounts credited to the fund. All amounts credited to the fund shall be held in trust and shall be available for expenditure, without further appropriation, by the division of energy resources for activities of the division related to the development, oversight and implementation of programs for energy reliability, renewable energy, public procurement of energy and energy efficiency, and climate change. Any unexpended balance in the fund at the close of a fiscal year shall remain in the fund and shall be available for expenditure in the following fiscal year.

### *Parole Board Selection Panel*

SECTION 58. [Section 4 of chapter 27](#) of the General Laws, as so appearing, is hereby amended by striking the first and second sentences of the second paragraph and inserting in place thereof the following sentences:- Whenever a vacancy occurs in the membership of the board the governor may appoint a panel of five persons consisting of the commissioner of probation or his designee, the commissioner of the department of correction or his designee, the president of the Massachusetts district attorney's association or his designee, a criminal defense attorney familiar with the parole system, and the secretary of the executive office of public safety or his designee who shall serve as chairman of said panel. Said panel shall submit to the governor, within sixty days of the establishment of said panel, a list of not less than three nor more than six persons, or not less than six nor more than nine persons in the event there should be two or more vacancies to fill, who are qualified by knowledge, education or experience in the administration of



criminal justice or in the behavioral sciences as hereinafter provided.

*Children's and Seniors' Health Care Assistance Fund*

SECTION 59. [Section 2FF of chapter 29](#) of the General Laws, as amended by [sections 143 and 144 of chapter 26 of the acts of 2003](#), is hereby repealed. As of the effective date of this section, the comptroller shall transfer any remaining balance in the fund named therein to the General Fund.

*Massachusetts Turnpike Merger*

SECTION 60. [Chapter 29](#) of the General Laws, as amended, is hereby further amended by inserting the following new section:-

Section 2NNN. There shall be set up on the books of the commonwealth a separate fund to be known as the Turnpike Efficiency Fund, which shall not contribute to the calculation of the consolidated net surplus pursuant to [section 5C of chapter 29](#) of the General Laws. There shall be credited to this fund all amounts paid to the commonwealth by the Massachusetts turnpike authority pursuant to [sections 27 and 28 of chapter 81A](#), and any income derived from the investing of all amounts credited to the fund. Amounts credited to the fund shall be available for expenditure, subject to appropriation, by any executive office, department, agency, board, commission or other authority that enters into an agreement with the Massachusetts turnpike authority pursuant to [section 27 of chapter 81A](#) for the purpose of fulfilling its obligations under such agreement. Any remaining amounts credited to the fund shall be applied by the secretary of administration and finance, subject to appropriation, to make or reimburse (i) payments made by the commonwealth during any fiscal year pursuant to any contract for financial assistance between the commonwealth and the Massachusetts turnpike authority, which have not yet been fully reimbursed by said authority pursuant to [section 28 of chapter 81A](#), (ii) payments made by the commonwealth during any fiscal year with respect to debt service on bonds or notes of the commonwealth issued to finance any costs of any portion of the metropolitan highway system, as defined in said [chapter 81A](#), (iii) any other payments made by the commonwealth during any fiscal year with respect to any other costs of any portion of the metropolitan highway system, including without limitation, payments made under the contract between the authority and the commonwealth authorized under subsection (c) of [section 12 of said chapter 81A](#), (iv) deposits into, the CA/T Open Spaces Maintenance Trust established pursuant to the authority provided by [section 4F of chapter 7](#), and (v) any other payment made by the commonwealth during any fiscal year for a purpose permitted under Article LXXVIII of the Amendments to the Constitution.

*Off Budget Intragovernmental Service Fund*

SECTION 61. [Chapter 29](#) of the General Laws, as amended, is hereby further amended by inserting the following new section:-

Section 2000. There shall be established and set up on the books of the commonwealth a separate fund to be known as the Commonwealth Non-Budgeted Governmental Fund. The fund shall be used to properly account for non-budgeted revenue accounts used for governmental purposes as determined by the comptroller in accordance with Generally Accepted Accounting Principles. Revenues may be retained and expended without further appropriation. The comptroller may approve encumbrances and authorize departments to incur obligations in anticipation of expected receipts. Revenues deposited in the fund that are unexpended at the end of the fiscal year shall not revert to the General Fund. No expenditures from said fund shall be authorized that would cause said fund to be in deficit at the end of any fiscal year. Furthermore, the comptroller shall have discretion to include in this fund the balances and activities of accounts previously authorized by special or general law and reported in funds other than budgeted funds that have a governmental nature as determined by the comptroller in accordance with Generally Accepted Accounting Principles.

The following subsections describe certain internal governmental services for which the actual costs of providing the identified services, which may include, but shall not be limited to, personnel costs, administrative expenses, materials and contract services, shall be charged to state agencies using these services, and revenues may be retained and expended by the agency providing the service without further appropriation for the purposes of funding these services:

- (a) The bureau of state office buildings may charge other agencies reimbursement for overtime expenses, materials and contract services purchased in performing renovation and related services for agencies occupying state buildings or for services rendered to approved entities utilizing state facilities.
- (b) The bureau of state office buildings may charge the division of unemployment assistance, or other agency occupying the Hurley state office building for the costs of operation and maintenance of the space.
- (c) The office of the state comptroller may charge state agencies' current fiscal year appropriations for the payment of prior year deficiencies and transfer amounts equivalent to the amounts of any prior year deficiency, so-called, subject to the conditions stated herein. The comptroller shall only assess chargebacks to those current fiscal year appropriations when the account to which the chargeback is applied is the same account to which the prior year deficiency pertains or, if there is no such account, to the current fiscal year appropriation for the general administration of the department that administered the account to which the prior year deficiency pertains. No chargeback shall be made which would cause a deficiency in any current fiscal year item of appropriation. The comptroller shall report on a quarterly basis to the house and senate committees on ways and means all chargebacks assessed, including the amount of the chargeback, the item of appropriation, subsidiary charged and the reason for the prior year deficiency.
- (d) The office of the state comptroller may charge state agencies for the cost of the commonwealth's employer contributions to the Unemployment Compensation Fund and the Medical Security Trust Fund; provided, that the secretary of administration and finance shall authorize the collection, accounting and payment of such contributions. In executing these responsibilities the state comptroller may charge, in addition to individual appropriation accounts, certain non-appropriated funds in amounts that are computed on the same basis as the commonwealth's contributions are determined, including expenses, interest expense or related charges.
- (e) The information technology division may charge user agencies for the costs of postage, including but not limited to the purchase, delivery, handling of and contracting for supplies, postage fees and related equipment and other incidental expenses.



(f) The department of conservation and recreation may charge user agencies for the costs of operating the department's telecommunications system; provided, that nothing in this clause shall diminish or impair the rights of access or utilization of all current users of the system pursuant to agreements which have been entered into with the department.

(g) The department of conservation and recreation may charge user state agencies for the costs of purchasing fuel, oil and other associated products.

(h) The department of highways may charge user state agencies for the costs of the purchase of bulk fuel for certain vehicles under the authority of the operational services division and the cost of purchased fuel for other state agencies and for certain administrative expenses related to purchasing and distributing the fuel.

(i) The department of state police may charge for the costs of overtime associated with requested police details; provided, that for the purpose of accommodating discrepancies between the receipt of revenues and related expenditures, the department of state police may incur expenses and the comptroller may certify for payment amounts not to exceed the most recent revenue estimate therefore as reported in the state accounting system.

(j) The department of state police may charge user agencies for the costs of operating the department's telecommunications system; provided, that nothing in this section shall diminish or impair the rights of access or utilization of all current users of the system pursuant to agreements which have been entered into with the department.

#### *Inspector General Transfer to Comptroller*

SECTION 62. Subsection (b) of [section 29F of said chapter 29](#), as appearing in the 2002 Official Edition, is hereby amended by striking out, in line 47, the words "the inspector general,".

#### *Inspector General Transfer to Comptroller*

SECTION 63. Subsection (d) of said [section 29F of said chapter 29](#), as so appearing, is hereby amended by striking the final sentence of the second paragraph.

#### *Cost Avoidance Contracts*

SECTION 64. Said [chapter 29](#), as so appearing, is hereby amended by inserting the following new section:-

SECTION 29J. Notwithstanding the provisions of any general or special law to the contrary, the comptroller may enter into contracts to identify and pursue cost avoidance opportunities for programs of the commonwealth. Payments on account of such cost avoidance projects shall be made only from such actual

cost savings as have been certified in writing to the house and senate committees on ways and means by the comptroller and the budget director as attributable to such cost avoidance projects. The comptroller may establish such procedures, as he deems appropriate and necessary to accomplish the purpose of this section. The budget director shall report on a quarterly basis to the house and senate committees on ways and means the status of all cost avoidance projects which are undertaken pursuant to the provisions of this section and the comptroller shall report on said projects as a part of his annual report pursuant to section 12 of chapter 7A.

#### *Health Care Security Trust Fund Transfer*

SECTION 65. [Section 3 of chapter 29D](#) of the General Laws, as amended by [sections 7 and 7A of chapter 300 of the acts of 2002](#), is hereby further amended by striking subsection (c) and inserting in place thereof the following subsection:-

(c) The comptroller shall promptly certify to the executive office for administration and finance, the house and senate committees on way and means, the joint committee on health care and the advisory committee on health care and tobacco control established pursuant to section 5, the amount and date when any payments are made pursuant to the master settlement agreement in the tobacco action and any other payments are made or credited to said fund. In fiscal year 2005, and thereafter, the comptroller shall transfer the total amount of payments from the master settlement agreement from the Health Care Security Trust Fund to the General Fund not later than 15 days after the certification of said payments.

#### *Inspector General Transfer to Comptroller*

SECTION 66. Paragraph (2) of subsection (b) of [section 39R of chapter 30](#) of the General Laws, as so appearing, is hereby amended by striking out, in lines 66 and 67, the words "inspector general" and inserting in place thereof the following:- the state comptroller.

#### *Inspector General Transfer to Comptroller*

SECTION 67. Subsection (e) of said [section 39R of said chapter 30](#), as so appearing, is hereby amended by striking out, in lines 121 and 125, the words "inspector general" and inserting in place thereof the following:- comptroller.

#### *Management Compensation Reform*

SECTION 68. Subsection (9) of [section 45 of said chapter 30](#), as so appearing, is hereby amended by striking out in their entirety the definitions of "increment" and "'Step-in-range" or "increment step".

*Management Compensation Reform*

SECTION 69. Said [chapter 30](#), as so appearing, is hereby amended by striking out section 46C and inserting in place thereof the following section:-

Section 46C. The personnel administrator shall develop and maintain a management salary schedule. The schedule shall provide for salary ranges to which are assigned management classification titles and their job groups. Each range shall have a minimum and maximum salary rate. The personnel administrator shall review and revise the salary ranges as necessary. No position allocated to the management salary schedule shall be classified under [chapter 31](#). Notwithstanding the provisions of sections 9A and 9B of this chapter or the provisions of any other general or special law to the contrary, no person appointed to a position in the management salary schedule shall acquire tenure in any such position.

The personnel administrator shall establish a management performance evaluation program, which shall include criteria to be used to determine merit pay increases, non-cash incentives and/or bonuses for managers. The personnel administrator shall establish rules governing salary administration and incentives for management employees, including rules for promotion, demotion and transfer. The personnel administrator shall establish rules for the compensation of any non-management employees excluded from collective bargaining under chapter 150E.

*Management Compensation Reform*

SECTION 70. Sections 46D through 46G, inclusive, of said [chapter 30](#), as so appearing, are hereby repealed.

*Department of Public Safety Name Change*

SECTION 71. [Section 50 of said chapter 30](#), as so appearing, is hereby amended by striking out, in line 8, the words "public safety" and inserting in place thereof the following:- inspection and regulation.

*Amendment to Assault Pay Statute*

SECTION 72. [Section 58 of said chapter 30](#), as so appearing, is hereby amended by striking the fourth paragraph and inserting in place thereof the following paragraph:-

Notwithstanding the provisions of this section, an employee who, while in the performance of duty, receives bodily injuries resulting from the acts of violence of patients or prisoners in his custody, and who as

a result of such injury would be entitled to benefits under said [chapter 152](#), section 34 or section 34A, shall be paid the difference between the weekly cash benefits to which he would be entitled under said [chapter 152](#) and his regular salary; or, under [chapter 152](#) section 35, shall be paid the difference between his regular salary and the sum of the weekly cash benefits to which he would be entitled under said [chapter 152](#) and an assigned or agreed upon earning capacity. Employees who are separated from employment for any reason, including but not limited to, resignation, termination or retirement, shall not be entitled to payments under this section. In addition, employees who refuse to meet with or participate in vocational rehabilitation pursuant to [chapter 152](#) section 30G shall not be entitled to payments under this section. Any benefit provided by this section shall not pay the employee more than his regular base net pay as stated on their last payroll statement prior to the injury, minus an assigned or agreed upon earning capacity, if applicable.

*Inspector General Transfer to Comptroller*

SECTION 73. Paragraph (33) of subsection (b) of [section 1 of chapter 30B](#) of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by striking out, in line 97, the words "inspector general" and inserting in place thereof the following:- state comptroller.

*Online Municipal Procurement Notices*

SECTION 74. Clause (5) of subsection (c) of [section 5 of said chapter 30B](#), as so appearing, is hereby amended by inserting after the word "body", in line 32, the following:- or, in the alternative, on a public internet web site of either the governmental body or of the commonwealth.

*Inspector General Transfer to Comptroller*

SECTION 75. Subsection (c) of said [section 5 of said chapter 30B](#), as appearing in the 2002 Official Edition, is hereby amended by striking out, in lines 55 and 56, the words "inspector general" and inserting in place thereof the following:- comptroller.

*Inspector General Transfer to Comptroller*

SECTION 76. [Section 17\(d\) of chapter 30B](#) of the General Laws, as so appearing, is hereby repealed.

*Inspector General Transfer to Comptroller*

SECTION 77. [Section 19 of said chapter 30B](#), as so appearing, is hereby amended by striking out, in lines 16 and 17, words "inspector general" and inserting in place thereof the following:- state comptroller.

*Civil Service Reform*

SECTION 78. [Section 1 of chapter 31](#) of the General Laws, as so appearing, is hereby amended by striking out the definitions of "Career management service positions", "Labor service", "Official service", "Register" and "Seasonal position".

*Civil Service Reform*

SECTION 79. Said [section 1 of said chapter 31](#), as so appearing, is hereby further amended by striking the definition of "Civil service position" and inserting in place thereof the following definition:-

"Civil service position", a uniformed police or firefighter or correction officer position, appointment to which is subject to the requirements of the civil service law and rules.

*Civil Service Reform*

SECTION 80. Said [section 1 of said chapter 31](#), as so appearing, is hereby further amended by striking out, in line 62, the words "positions in the official service" and inserting in place thereof the following:- civil service positions.

*Civil Service Reform*

SECTION 81. Said [section 1 of said chapter 31](#), as so appearing, is hereby further amended by striking out, in line 98, the words "or in the labor service, pursuant to the civil service rules".

*Civil Service Reform*

SECTION 82. [Section 2 of said chapter 31](#), as so appearing, is hereby amended by striking out paragraphs (c), (d) and (e).

*Civil Service Reform*

SECTION 83. Paragraph (b) of [section 3 of said chapter 31](#), as so appearing, is hereby amended by striking out, in line 15, the following:- in the official or labor service.

*Civil Service Reform*

SECTION 84. Said [section 3 of said chapter 31](#), as so appearing, is hereby further amended by striking out paragraphs (g) and (j).

*Civil Service Reform*

SECTION 85. Paragraph (l) of [section 3 of said chapter 31](#), as so appearing, is hereby further amended by striking out, in line 44, the words "in the various state agencies of the commonwealth" and inserting in place thereof the following:- by an appointing authority.

*Civil Service Reform*

SECTION 86. Paragraph (b) of [section 5 of said chapter 31](#), as so appearing, is hereby amended by striking the first sentence and inserting in place thereof the following sentence:- Establish, with the approval of the commission, classification plans for civil service positions in every city and town which are subject to the provisions of this chapter.

*Civil Service Reform*

SECTION 87. Paragraph (f) of said [section 5 of said chapter 31](#), as so appearing, is hereby amended by striking the words "including standards designed to facilitate the employment of handicapped persons, disadvantaged persons and persons who have been convicted of criminal offenses".

*Civil Service Reform*

SECTION 88. Said [section 5 of said chapter 31](#), as so appearing, is hereby further amended by striking out paragraphs (g) and (i).

*Civil Service Reform*

SECTION 89. Paragraph (l) of said [section 5 of said chapter 31](#), as so appearing, is hereby amended by striking the words "various state agencies and cities and towns of the commonwealth" and inserting in place thereof the following:- appointing authorities.

*Civil Service Reform*

SECTION 90. Paragraph (m) of said [section 5 of said chapter 31](#), as so appearing, is hereby amended by striking the words "various state agencies and cities and towns of the commonwealth" and inserting in place thereof the following:- appointing authorities.

*Civil Service Reform*

SECTION 91. Paragraph (p) of said [section 5 of said chapter 31](#), as so appearing, is hereby amended by striking the words "state agencies" and inserting in place thereof the following:- appointing authorities.

*Civil Service Reform*

SECTION 92. [Section 6A of said chapter 31](#), as so appearing, is hereby amended by striking out the first paragraph.

*Civil Service Reform*

SECTION 93. Said [section 6A of said chapter 31](#), as so appearing, is hereby further amended by inserting at the beginning of the second paragraph, the following new sentence:- The administrator shall establish a program for the implementation of a performance evaluation system for all civil service employees.

*Civil Service Reform*

SECTION 94. [Section 7 of said chapter 31](#), as so appearing, is hereby amended by striking out the last paragraph.

*Civil Service Reform*

SECTION 95. [Section 11 of said chapter 31](#), as so appearing, is hereby amended by striking out, in lines 4 and 5, the words ", or of the city, town, or district where the promotion is to be made, as the case may be,".

*Civil Service Reform*

SECTION 96. [Section 12 of said chapter 31](#), as so appearing, is hereby amended by striking out, in lines 3,4 and 5, the words "or, if the appointing authority is a department, board, commission, institution or other agency within an executive office, with the authorization of the secretary of such office".

*Civil Service Reform*

SECTION 97. [Section 13 of said chapter 31](#), as so appearing, is hereby amended by striking out, in lines 2,3,4 and 5, the words "or, if the appointing authority is a department, board, commission, institution or other agency within a executive office, with the secretary in charge of such office,".

*Civil Service Reform*

SECTION 98. [Section 14 of said chapter 31](#), as so appearing, is hereby amended by striking out, in lines 2 and 3, the words "or the secretary in charge of the executive office, as the case may be,".

*Civil Service Reform*

SECTION 99. Said [section 14 of said chapter 31](#), as so appearing, is hereby further amended by striking out, in line 25, the words "or secretary".

*Civil Service Reform*

SECTION 100. Said [section 14 of said chapter 31](#), as so appearing, is hereby further amended by striking the last sentence of the second paragraph.



*Civil Service Reform*

SECTION 101. [Section 15 of said chapter 31](#), as so appearing, is hereby amended by striking out, in lines 2, 3 and 4, the words "or, if the appointing authority is a department, board, commission, institution or other agency within an executive office, with the approval of the secretary of such office,".

*Civil Service Reform*

SECTION 102. Said [section 15 of said chapter 31](#), as so appearing, is hereby further amended by striking the first two sentences of the fourth paragraph.

*Civil Service Reform*

SECTION 103. [Section 16 of said chapter 31](#), as so appearing, is hereby amended by striking out, in lines 17, 18 and 19, the following words:- (a) for a scientific or professional position for which education at or above the master's degree level is required by statute or under authority thereof;.

*Civil Service Reform*

SECTION 104. Sections 17, 28, 29, 30, 32, 36, 47, 47A, 48A, 49, 57, 63, 66 and 76 of said [chapter 31](#), as so appearing, is hereby repealed.

*Civil Service Reform*

SECTION 105. [Section 18 of said chapter 31](#), as so appearing, is hereby amended by striking out, in lines 18 and 19, the words "positions in state service and service in political subdivisions of the commonwealth" and inserting in place thereof the following:- civil service positions.

*Civil Service Reform*

SECTION 106. [Section 31 of said chapter 31](#), as so appearing, is hereby amended by striking out, in lines

4 and 5, the words "other than laborer".

*Civil Service Reform*

SECTION 107. Said [section 31 of said chapter 31](#), as so appearing, is hereby further amended by striking out, in lines 18, 19 and 20, the following words:- the position is in a department, institution or hospital carrying out functions connected with the public safety or public health and.

*Civil Service Reform*

SECTION 108. [Section 35 of said chapter 31](#), as so appearing, is hereby amended by striking the third paragraph.

*Civil Service Reform*

SECTION 109. [Section 39 of said chapter 31](#), as so appearing, is hereby amended by striking out, in lines 22 and 23, the following words:- or to the next lower title or titles in the labor service, as the case may be,.

*Civil Service Reform*

SECTION 110. [Section 44 of said chapter 31](#), as so appearing, is hereby amended by striking out, in line 4, the following words:- or chapter thirty-one A.

*Civil Service Reform*

SECTION 111. [Section 46 of said chapter 31](#), as so appearing, is hereby amended by inserting after the words "shall reinstate any" in line 20, the following:- police and firefighter.

*Civil Service Reform*

SECTION 112. [Section 48 of said chapter 31](#), as most recently amended by [section 572 of chapter 26 of the acts of 2003](#), is hereby repealed.

*Civil Service Reform*

SECTION 113. Said [chapter 31](#), as appearing in the 2002 Official Edition, is hereby amended by striking section 51 and inserting in place thereof the following section:-

Section 51. All uniformed police and fire positions in all cities shall be subject to the civil service law and rules except as provided by any other law.

The positions of chief of police or chief of fire department, or the officer performing similar duties, whatever his title, shall be subject to the civil service law and rules in cities which vote pursuant to the provisions of sections 54 and 55 to accept the applicability of the civil service law and rules to such office or offices.

*Civil Service Reform*

SECTION 114. Said [chapter 31](#), as so appearing, is hereby amended by striking section 52 and inserting in place thereof the following section:-

Section 52. The civil service law and rules shall be applicable to any of the following in a town which accepts such applicability pursuant to the provisions of sections 54 and 55:

(a) The chief of police, or the officer performing similar duties, whatever the title of his office, in any town.

(b) The chief of the fire department, or the officer performing similar duties, whatever the title of his office, in any town.

(c) The police force, the fire force and the call fire force in any town.

*Civil Service Reform*

SECTION 115. [Section 53 of said chapter 31](#), as so appearing, is hereby amended by striking clause (a).

*Civil Service Reform*

SECTION 116. Clause (b) of said [section 53 of said chapter 31](#), as so appearing, is hereby amended by striking out, in line 8, the words "to any office of such city and town" and inserting in place thereof the following:- to any uniformed police or fire position of such city and town.

*Civil Service Reform*

SECTION 117. Clause (b) of said [section 53 of said chapter 31](#), as so appearing, is hereby further amended by striking the last sentence of the first paragraph.

*Civil Service Reform*

SECTION 118. [Section 54 of said chapter 31](#), as so appearing, is hereby amended by striking out, in lines 3, 4 and 5, the words "either or both of the offices specified in clause (2) of section fifty-one or to any city office" and inserting in place thereof the following:- to any city uniformed fire or police position.

*Civil Service Reform*

SECTION 119. Said [section 54 of said chapter 31](#), as so appearing, is hereby further amended by striking out, in lines 11, 12 and 13, the words "the official service or to the labor service, or to both services, or to any one or more of the positions or forces specified in clauses (a) through (h)" and inserting in place thereof the following:- any one or more of the positions or forces specified in clauses (a) through (c).

*Civil Service Reform*

SECTION 120. Said [section 54 of said chapter 31](#), as so appearing, is hereby further amended by striking out, in lines 14 and 15, the words "to either or both of such services, or".

*Civil Service Reform*

SECTION 121. Said [section 54 of said chapter 31](#), as so appearing, is hereby further amended by striking out, in line 22, the words "civil service law and rules to a town office" and inserting in place thereof the following:- civil service law and rules to a town position.

*Civil Service Reform*

SECTION 122. [Sections 55 and 56 of said chapter 31](#), as so appearing, is hereby amended by striking out the words "office or" wherever they appear.

*Civil Service Reform*

SECTION 123. [Section 56 of said chapter 31](#), as so appearing, is hereby further amended by striking out, in lines 98 and 99, the words "to the office of chief of" and inserting in place thereof the following:- to the position of chief of.

*Civil Service Reform*

SECTION 124. Said [section 56 of said chapter 31](#), as so appearing, is hereby further amended by striking out, in line 100, the words "any incumbent of such office" and inserting in place thereof the following:- any incumbent of such position.

*Civil Service Reform*

SECTION 125. Said [section 56 of said chapter 31](#), as so appearing, is hereby further amended by striking subparagraphs 2, 3, 4 and 5 of the third paragraph, and inserting in place thereof the following subparagraphs:-

2. An incumbent of any uniformed police or fire position who has been employed continuously for six months or more but less than two years immediately prior to the date on which such position became a civil service position shall be subjected to a qualifying examination prescribed by the administrator, and, if he passes, shall be deemed to be a tenured employee after serving a probationary period as provided for in section 34.

3. An incumbent of any uniformed police or fire position who has been employed continuously for two years or more immediately prior to the date on which such position became a civil service position shall be subjected to a qualifying examination prescribed by the administrator, and, if he passes, shall be deemed to be a tenured employee without serving any probationary period.

*Civil Service Reform*

SECTION 126. Said [section 56 of said chapter 31](#), as so appearing, is hereby further amended by striking out, in lines 53 and 54, the words "allocable to the official service".

*Civil Service Reform*

SECTION 127. Said [section 56 of said chapter 31](#), as so appearing, is hereby further amended by striking out, in lines 59 and 61, the words "officer or" .

*Civil Service Reform*

SECTION 128. Said [section 56 of said chapter 31](#), as so appearing, is hereby further amended by striking out the sixth paragraph.

*Civil Service Reform*

SECTION 129. [Section 67 of said chapter 31](#), as so appearing, is hereby amended by striking the third paragraph.

*Civil Service Reform*

SECTION 130. [Section 68 of said chapter 31](#), as so appearing, is hereby amended by striking out, in line 8, the words "within the official or labor service" and inserting in place thereof the following:- holding a civil service position.

*Civil Service Reform*

SECTION 131. [Section 71 of said chapter 31](#), as so appearing, is hereby amended by striking out, in line 26, the words "the official or labor service" and inserting in place thereof the following:- a civil service position.

*Civil Service Reform*

SECTION 132. [Section 72 of said chapter 31](#), as so appearing, is hereby amended by striking out the first sentence of the first paragraph and inserting in place thereof the following sentence:- The commission or administrator may investigate all or part of the civil service program, including but not limited to the work, duties and compensation of persons employed in the civil service, the number of persons employed in the civil service, and the titles, ratings, and methods of promotion in the civil service.

*Civil Service Reform*

SECTION 133. [Section 74 of said chapter 31](#), as so appearing, is hereby amended by striking out the fourth paragraph.

*Civil Service Reform*

SECTION 134. [Chapter 31A](#) of the General Laws, as so appearing, is hereby repealed.

*Pension Reform*

SECTION 135. [Section 1 of chapter 32](#) of the General Laws, as so appearing, is hereby amended by inserting after the definition of "accumulated additional deductions" the following new definition:-

"Accumulated assumed actuarial deductions," the sum of the amount of the regular deductions and the actuarial assumed interest thereon that would have been credited to any member's account in the annuity savings fund of any system had actuarial assumed interest been credited rather than regular interest.

*Pension Reform*

SECTION 136. [Section 1 of said chapter 32](#), as so appearing, is further amended by inserting after the definition of "accumulated total deductions" the following new definition:-

"Actuarial assumed interest," interest that would be credited to a member's account in the annuity savings fund of any system or to his account in the special fund for military service credit, as provided in subdivision (6) of section 22, except that for any calendar year beginning after December 31, 1983, "actuarial assumed interest" shall be interest that would have been so credited using a rate equal to a system's actuarial assumed rate of return on investments, as determined from time to time by the commission, rather than regular interest.

*Pension Reform*

SECTION 137. [Section 1 of said chapter 32](#), as so appearing, is hereby further amended by inserting at the end of the first paragraph of the definition of "Regular compensation" the following paragraph:-

"Regular compensation," during any period subsequent to June 30, 2004, shall mean the salary or wages, including differential payments for shifts, training, education, certification, and longevity, lawfully determined for the individual service of the employee by the employing authority. Such amounts shall not

include, without limitation, bonus, overtime, evaluated maintenance, cash or non-cash allowances for specified purposes, such as housing, transportation, travel, and clothing, whether or not receipt of such an allowance requires evidence of expenditure for such purpose, premiums paid by any governmental unit for the purchase of an individual or group annuity contract as authorized by [section 18A of chapter 15](#) or [section 37B of chapter 71](#), severance pay for any and all unused sick leave, early retirement incentives, or any other payments made as a result of giving notice of retirement. "Regular compensation" shall include any part of such salary or wages derived from federal grants except as provided in clause (xi) of paragraph (a) of subdivision (2) of section 3; provided, that salary or wages payable in the form of cost of living bonuses and cost of living pay adjustments shall be included in regular compensation. In the case of a teacher employed in a public day school who is a member of the teachers' retirement system, salary payable under the terms of an annual contract for additional services in such a school and also compensation for services rendered by said teacher in connection with a school lunch program or for services in connection with a program of instruction of physical education and athletic contests as authorized by [section 47 of chapter 71](#) shall be regarded as regular compensation rather than as bonus or overtime and shall be included in the salary on which deductions are to be paid to the annuity savings fund of the teachers' retirement system. In the case of police officers, firefighters and employees of a municipal department who are employed as fire alarm signal operators or signal maintenance repairmen, money paid for holidays shall be regarded as regular compensation rather than as overtime and shall be included in the salary on which deductions are to be paid to the annuity savings fund. Regular compensation shall also mean salary or wages received by any member having made the election provided for in section 90G½ or section 90G¾ and serving after age 70 pursuant to sections 90F, 90G or 90H.

#### *Pension Reform*

SECTION 138. [Sections 3 and 4 of said chapter 32](#), as so appearing, are hereby amended by striking out the words "accumulated regular deductions" wherever they occur and inserting in place thereof the following:- accumulated actuarial assumed deductions.

#### *Pension Reform*

SECTION 139. [Sections 3 and 4 of said chapter 32](#), as so appearing, are hereby amended by striking out the words "regular interest" wherever they occur and inserting in place thereof the following:- actuarial assumed interest.

#### *Pension Reform*

SECTION 140. Paragraph (a) of subsection (1) of [section 4 of said chapter 32](#), as so appearing, is hereby amended by striking the following words:- provided, that he shall be credited with a year of creditable service for each calendar year during which he served as an elected official;



*Pension Reform*

SECTION 141. Paragraph (a) of subsection (2) of [section 5 of said chapter 32](#), as so appearing, is hereby amended by inserting at the end thereof the following paragraph:-

The retirement allowance of a member who at retirement is a member of groups 1, 2 or 4, and who during his or her time in service has been classified as a member of more than one group, shall be pro-rated to reflect the amount of time the member was classified in each group, as follows: The member's retirement allowance shall be calculated separately as if the member were classified at the time of retirement in each of the groups in which he or she was ever classified. The member's retirement allowance shall then be the weighted average of such retirement allowances, weighted to reflect the proportion of time within the member's total creditable service that is attributable to each group.

*Pension Reform*

SECTION 142. Subsection (2) of [section 10 of said chapter 32](#), as so appearing, is hereby amended by striking out paragraph (a).

*Pension Reform*

SECTION 143. Subsection (1) of [section 12 of said chapter 32](#), as so appearing, is hereby amended by striking the second sentence and inserting in place thereof the following sentences:- Any member who is retired for disability under the provisions of section 6, section 7 or who is retired under the provisions of subdivision (2) of section 26, may elect to have his allowance paid in accordance with the terms of option (a), option (b), or option (c), provided, however, that, in the event that the surviving eligible beneficiary of said member under said option (c) is eligible for a benefit under section 9, said beneficiary shall elect to receive either a benefit pursuant to option (c) or a benefit pursuant to said section 9, but in no event shall said beneficiary be eligible for both benefits. When at the time of a member's death there exist both a beneficiary under option (c) and a survivor entitled to a benefit under Section 9, the smaller of the two benefits shall cease and the amount of the larger of the two benefits shall be divided between the Section 9 survivor and the option (c) beneficiary; provided that the option (c) beneficiary shall receive an amount equal to up to one-half of the total benefits to be paid, but not to exceed the benefit he or she would have received under option (c); provided further that the Section 9 survivor shall receive the balance of the benefits to be paid. Each share of the benefits to be paid shall separately be eligible for subsequent adjustments pursuant to section 102 and 103.

*Pension Reform*

SECTION 144. Subsection (2) of [section 12 of said chapter 32](#), as so appearing, is hereby amended in line 64 by inserting after the words "A full retirement allowance payable to such member which shall consist of" the following:- the lesser of a) the maximum retirement allowance ceiling established in section 105, or b) the total of.

#### *Pension Reform*

SECTION 145. Paragraph (c) of subsection (1) of [section 22 of said chapter 32](#), as so appearing, is hereby amended by inserting at the beginning thereof the following:- For any period when regular compensation as defined in section 1 includes such an allowance,.

#### *Pension Funding Schedule*

SECTION 146. Subsection (1) of [section 22C of said chapter 32](#), as amended by [section 179 of chapter 26 of the acts of 2003](#), is hereby further amended by striking the third paragraph and inserting in place thereof the following paragraph:-

Notwithstanding the provisions of any general or special law to the contrary, appropriations or transfers made to the commonwealth's pension liability fund in fiscal year 2005 to 2007, inclusive, shall be made in accordance with the following funding schedule: \$1,216,936,000 in fiscal year 2005, \$1,274,675,000 in fiscal year 2006, and \$1,335,176,000 in fiscal year 2007.

#### *Pension Reform*

SECTION 147. [Chapter 32](#) of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by inserting after section 22D the following new section:-

Section 22E. (1) Notwithstanding the provisions of any general or special law to the contrary any legislation that affects the commonwealth's pension liability, as defined in section 1, by changing the benefits or contributions of classes of members, including but not limited to early retirement incentive programs, shall be accompanied by a pension impact statement when filed with either chamber of the General Court. The pension impact statement shall be prepared or approved by the actuary of the public employee retirement administration commission and shall analyze, study, and value the costs and the actuarial liabilities attributable to the proposed change. The actuary shall also file the pension impact statement with each system to which any portion of the change in liability is attributable and shall send a copy thereof to the secretary for administration and finance and the house and senate committees on ways and means.

(2) Regardless of whether a pension impact statement was filed with regard to a matter, as soon as practicable after enactment of any amendment or exception to this chapter, the actuary shall prepare or cause to have prepared for his approval a pension impact certificate which shall estimate the cost of said provision and any liability it creates. The actuary may assess the cost of preparing the certificate to the

system or systems to which costs and liabilities of said provision are attributable or may require said systems to prepare the certificate for his approval. The actuary shall also file the pension impact certificate with each system to which any portion of the change in liability is attributable and shall, when any part of the liability is attributed to the state employees retirement system, the state teachers retirement system, the state-Boston retirement system for teachers, or to future cost of living adjustments pursuant to sections 102 and 103, send a copy thereof to the secretary for administration and finance and the house and senate committees on ways and means. The actuary may subsequently revise the estimates in a pension impact certificate and revise the required contribution schedule it requires accordingly.

(3) Whenever after June 30, 2004 a retirement system's unfunded liability is increased due to one or more members' retirement allowances being increased as a result of amendments or exceptions to the provisions of this chapter, that retirement system shall be required to amortize the additional amount of unfunded liability so created and as included in the pension impact certificate over a period not to exceed three fiscal years beginning in the fiscal year immediately following receipt of the pension impact certificate. When such an enactment involves members of retirement systems other than the state retirement system, said retirement systems shall assess employers of members amounts necessary to fund the required amortization. When such an enactment affects the state retirement system, the state teachers retirement system, the state-Boston retirement system for teachers, or cost of living adjustments pursuant to sections 102 or 103, amounts necessary to amortize the additional unfunded liability within three years shall be added to the amount to be transferred to the Commonwealth Pension Liability Fund pursuant to subsection (1) of section 22C, and section 5(b) of chapter 29.

### *Pension Reform*

SECTION 148. Said [chapter 32](#), as so appearing, is hereby amended by inserting at the end thereof the following new section:-

Section 105. (1) Notwithstanding any other provision of this chapter or the provisions of any special or general law to the contrary, the retirement allowance received by any member, retiring after June 30, 2004 and classified in group 1, 2, or 4 at the time of retirement whose retirement is pursuant to this chapter, except for sections 6, 7, 9, 25(1)-(3), 26, 28A, 28M, 28N, 42-48, 56-60, 65A-65J, 66, 71, 78 when the retirement is for incapacity, 85H, 85H1/2, 88, 89-89C, 90A, 90C3/4, 90D, 100, 100A, and 101, each inclusive, shall be the lesser of a) the retirement allowance which the retiree would otherwise be granted pursuant to this chapter or b) the maximum retirement allowance ceiling described in subsection (2).

(2) The maximum retirement allowance ceiling for each member upon retirement shall be the amount of a lifetime single annuity he could purchase at the time of retirement with his accumulated contributions, plus accrued interest at the retirement system's actuarial assumed rate of return as had been determined from time to time, had he made deemed contributions as follows: for periods of creditable service during which a member was a member of group 1, the deemed contribution shall be 15 per cent of regular compensation; for periods of creditable service during which a member was a member of group 2, the deemed contribution shall be 17.5 per cent of regular compensation; and for periods of creditable service during which a member was a member of group 4, the deemed contribution shall be 20 per cent of regular compensation. The maximum retirement allowance ceiling shall adjust a member's initial retirement allowance to the amount prescribed by the ceiling but shall not preclude subsequent adjustments pursuant to sections 102 and 103.

*Group Insurance Premium Contributions*

SECTION 149. [Section 8 of chapter 32A](#) of the General Laws, as so appearing, is hereby amended by striking out the first and second paragraphs and inserting in place thereof the following paragraphs:-

For policies of group life insurance and accidental death and dismemberment insurance, and group health insurance purchased or provided by the commission in accordance with the provisions of sections 4, 5, and 10C, the commonwealth, on behalf of active and retired employees and their dependents, shall contribute a portion of the aggregate monthly premiums or rates applicable to said coverages. The commonwealth's total share of the aggregate monthly premiums for the following categories of active employees and retirees, including both individual and dependent coverage, shall be determined as follows:

- (a) for active employees, the aggregate commonwealth contribution shall be no less than 75 per cent;
- (b) for employees who retired on or before July 1, 1994, the aggregate commonwealth contribution shall be no less than 90 per cent;
- (c) for employees who retired on or after July 2, 1994 but before July 1, 2004, the aggregate commonwealth contribution shall be no less than 85 per cent; and
- (d) for all other retired employees not described in (b) and (c) above, and their dependents, the aggregate commonwealth contribution shall be the same as in effect for active employees on the date such retiree retired.

In setting rates for each of the plans offered by the commission, the commission may vary the actual percentage contributed by the commonwealth for each of the different plans subject to the foregoing aggregate limits. The active and retired employees on behalf of themselves or themselves and their dependents shall contribute the remaining amount of the monthly premium. The commonwealth shall contribute a share of any additional premium which may be required for coverage of an employee's dependent child who is 19 years of age or over and mentally or physically incapable of earning his own living, such share equaling the same ratio as that paid on behalf of an active or retired employee and dependent.

*Municipal Borrowing Technical Changes*

SECTION 150. [Section 8 of chapter 44](#) of the General Laws, as amended by [sections 24 through 31 of chapter 46 of the acts of 2003](#), is hereby further amended by striking clause (15) and inserting in place thereof the following clause:-

- (15) For the construction of sewers, sewerage systems and sewage treatment and disposal facilities, or for the lump sum payment of the cost of tie-in to such services in a contiguous city or town, for a period not exceeding 30 years; provided, however, that either (a) the city or town has an enterprise or special revenue fund for sewer services and that the accountant or auditor or other officer having similar duties in the city or town shall have certified to the treasurer that rates and charges have been set at a sufficient level to cover the estimated operating expenses and debt service related to the fund, or (b) the issuance of the debt is approved by a majority of the members of a board composed of the attorney general, the state

treasurer, the state auditor and the director of accounts, or their designees.

*Inspector General Transfer to Comptroller*

SECTION 151. [Section 53F of chapter 44](#) of the General Laws, as so appearing, is hereby amended by striking out, in lines 50 and 51, the words "inspector general" and inserting in place thereof the following:- comptroller.

*Department of Public Safety Name Change*

SECTION 152. [Section 44A of chapter 48](#) of the General Laws, as so appearing, is hereby amended by striking out, in line 5, the words "public safety" and inserting in place thereof the following:- inspection and regulation.

*County Government Finance Review Board Membership*

SECTION 153. [Section 12 of chapter 64D](#) of the General Laws, as so appearing, is hereby amended by striking the first paragraph and inserting in place thereof the following paragraph:-

There shall be established within the executive office for administration and finance a county government finance review board, hereinafter referred to as the "board", consisting of the secretary for administration and finance or his designee, the commissioner of revenue or his designee, the secretary of public safety and the undersecretary of criminal justice or their designees, and a former Massachusetts sheriff as appointed by the governor. The secretary of administration and finance or his designee shall serve as chairperson of the board.

*Confidentiality of State Employee Home Addresses*

SECTION 154. Subsection (d) of [section 10 of chapter 66](#) of the General Laws, as so appearing, is hereby amended by striking out the last paragraph and inserting in place thereof the following three paragraphs:-

The home address and home telephone number of any employee of the judicial branch, any agency, executive office, department, board, commission, bureau, division or authority of the commonwealth, or of any political subdivision thereof or of any authority established by the general court to serve a public purpose, shall not be public records in the custody of a government agency which maintains records identifying such persons as falling within such categories and shall not be disclosed. Such information may be disclosed to an employee organization under [chapter 150E](#), a nonprofit organization for retired public employees under [chapter 180](#), or a criminal justice agency as defined in [section 167 of chapter 6](#).

The name and home address and home telephone number of a family member of a commonwealth

employee shall not be public records in the custody of a government agency which maintains records identifying such persons as falling within such categories and shall not be disclosed.

The home address, home telephone number and the place of employment or education of victims of adjudicated crimes and victims of domestic violence and of persons providing or training in family planning services, and the name, home address, home telephone number, and the place of employment or education of a family member of any of the foregoing, shall not be public records in the custody of a government agency which maintains records identifying such persons as falling within such categories and shall not be disclosed.

### *Charter School Expenditure Cap Removal*

SECTION 155. Subsection (i) of [section 89 of chapter 71](#) of the General Laws, as so appearing, is hereby amended by striking the second through sixth sentences and inserting the following sentence:- The board shall give priority to applications of charter schools located in districts where overall student performance on the statewide assessment system approved by the board of education pursuant to [section 11 of chapter 69](#) is at or below the statewide average in the year preceding said charter application.

### *Charter School Governance*

SECTION 156. [Section 89 of said chapter 71](#), as so appearing, is hereby amended by inserting at the end thereof the following new subsection:-

(ss) Notwithstanding any other provision of this section, one or more charter schools may be governed by a single board of trustees.

### *Massachusetts Turnpike Merger*

SECTION 157. [Section 2 of chapter 81A](#) of the General Laws, as so appearing, is hereby amended by striking out the first 4 paragraphs and inserting in place thereof the following paragraphs:-

The authority shall consist of nine members, one of whom shall be the secretary of the executive office for administration and finance, ex officio, one of whom shall be the secretary of the executive office of transportation and construction, ex officio, and one of whom shall be the chair of the commonwealth development coordinating council, ex officio, and six members to be appointed by the governor who shall be residents of the commonwealth, and at least one member at all times shall be a resident of a town which abuts the Massachusetts turnpike and is wholly or partially located between the Weston toll plaza and the interstate route 495 interchange. No more than three of the six members, other than the three ex officio members, shall be members of the same political party. The governor shall designate one of the members as chairperson, who shall serve as chairperson at the pleasure of the Governor during his term in office. The members of the authority in office on July 1, 2004 shall continue for the remainder of their respective terms.



The one new member appointed after July 1, 2004, and the successor of each member in office as of July 1, 2004, shall be appointed for a term of four years; provided, however, that any person appointed to fill a vacancy shall serve only for the unexpired term; and provided, further, that all members shall have senior management level experience in one or more of the following areas: engineering, construction, business, public or private finance, and transportation. A member of the authority shall be eligible for reappointment. Any member of the authority appointed or reappointed on or after July 1, 2004, except the three ex officio members, may be removed by the governor at any time with or without cause. Prior to entering upon the duties of his office, each member of the authority shall take an oath before the governor to administer the duties of his office faithfully and impartially and a record of such oath shall be filed in the office of the state secretary.

The authority shall elect one of the members as vice chairperson thereof. Five members of the authority shall constitute a quorum and the affirmative vote of five members shall be necessary for any action taken by the authority. No vacancy in the membership of the authority shall impair the right of a quorum to exercise all the rights and perform all the duties of the authority. The members shall meet monthly. Each meeting shall provide a sufficient opportunity for public comment.

For the purposes of this chapter, the chairperson of the authority as of December 31, 2003, shall receive an annual salary from said authority that is equal to the annual salary payable to said chairperson as of December 31, 2003. All successor chairpersons shall received an annual salary from the authority in the amount determined from time to time in the discretion of the board. The remaining members as of December 31, 2003, shall each receive an annual salary of \$25,852, shall be reimbursed for his actual expenses necessarily incurred in the performance of his duties and shall be eligible to participate in any benefit plan approved by the authority. Notwithstanding the foregoing, the one new member appointed after July 1, 2004, the successor of each member in office as of July 1, 2004 and the three ex officio members of the authority shall not be compensated for their service as members of the authority nor shall they be eligible to participate in any benefit plan approved by the authority, except that each such member shall be reimbursed for such member's actual expenses necessarily incurred in the performance of the member's duties.

### *Massachusetts Turnpike Merger*

SECTION 158. Subsection (b) of [section 5 of said chapter 81A](#), as so appearing, is hereby amended by striking out clause (ii) and inserting in place thereof the following clause:- (ii) to refund or otherwise pay any or all other debt or obligations of the authority relating to the turnpike, provided that any refunding notes or bonds shall not have a final maturity date later than the final maturity date of the debt or obligations being refunded;

### *Massachusetts Turnpike Merger*

SECTION 159. [Section 18 of said chapter 81A](#), as amended by [section 223 of chapter 26 of the acts of 2003](#), is hereby repealed.

*Department of Public Safety Name Change*

SECTION 160. [Section 24 of said chapter 81A](#), as appearing in the 2002 Official Edition, is hereby repealed.

*Massachusetts Turnpike Merger*

SECTION 161. Said [chapter 81A](#), as so appearing, is hereby amended by striking sections 27, 28, 29, 30 and 31 and inserting in place thereof the following sections:-

Section 27. Notwithstanding the provisions of any other general or special law to the contrary, the highway department is hereby authorized to enter into any agreement with the authority deemed necessary or desirable by the authority and the highway department (i) in order for the highway department to exercise or fulfill, on behalf of the authority, any of the powers, obligations or responsibilities of the authority under this chapter, and (ii) in connection with entering into the contract described in section 28 and in exchange for the payments to be made by the commonwealth thereunder, to permit the highway department to use any property of the authority in order to fulfill such powers, obligations and responsibilities and, to the extent not inconsistent with the provisions of any agreements pertaining to notes or bonds of the authority, for any other purposes of the highway department, provided that with respect to any period during which any agreement authorized by this section between the authority and the highway department is in effect, the liability of the authority for any claim pertaining to any property of the authority that is subject to such agreement, or otherwise arising out of the subject matter of such agreement shall be no greater than that of the commonwealth under the provisions of [section 18 of chapter 81](#) and [chapter 258](#).

Notwithstanding the provisions of any other general or special law to the contrary, other commonwealth executive offices, departments, agencies, boards, commissions and authorities are each hereby authorized to enter into any agreement with the authority deemed necessary or desirable by the authority and such executive office, department, agency, board, commission or other authority in order for such executive office, department, agency, board, commission or other authority to exercise or fulfill, on behalf of the authority, any of the powers, obligations or responsibilities of the authority under this chapter. All payments made by the authority under the agreements authorized by this section shall be credited upon receipt to the fund established pursuant to [section 2NNN of chapter 29](#) and applied in accordance with said section. With respect to any period during which any such agreement authorized by this section between the authority and such executive office, department, agency, board, commission or other authority is in effect, the liability of the authority for any claim pertaining to any property of the authority that is subject to such agreement, or otherwise arising out of the subject matter of any such agreement, shall be no greater than that of the commonwealth under the provisions of [section 18 of chapter 81](#) and [chapter 258](#).

Section 28. The secretary of administration and finance, on behalf of the commonwealth, shall enter into a contract with the authority prior to December 31, 2004, providing for payments from the commonwealth to the authority during each fiscal year equal to the aggregate amount of the debt service accruing or payable by the authority during such fiscal year on all notes and bonds of the authority, whenever issued, and amounts, if any, accruing or payable during each fiscal year under all interest rate hedge or option or similar agreements in effect as of June 30, 2004, and related to or entered into by the authority with respect to notes and bonds of the authority outstanding as of such date, minus any amounts paid by the



commonwealth to the authority during such fiscal year pursuant to the contract entered into by the authority and the commonwealth pursuant to subsection (c) of section 12 and minus other amounts available to pay such debt service in accordance with the terms of such bonds and notes and interest rate hedge or option or similar agreements, all as certified by the authority. The term of such contract shall extend until the end of the fiscal year in which all such notes and bonds and interest rate hedge or option or similar agreements are fully paid or payment provided for in accordance with their terms. The contract shall specify when payments shall be made by the commonwealth and shall further provide that, as of the last day of each month in which the commonwealth makes a payment to the authority pursuant to said contract, the authority shall reimburse the commonwealth for the amount of such payment from any available metropolitan highway system revenues, turnpike revenues or any other funds of the authority. The contract shall further provide that the authority shall pay to the commonwealth all remaining available metropolitan highway system revenues, turnpike revenues and other available funds of the authority at the times and in the amounts agreed to from time to time by the authority and the secretary for administration and finance or otherwise as specified in the contract. All amounts paid by the authority to the commonwealth pursuant to said contract shall be credited upon receipt to the fund established pursuant to [section 2NNN of chapter 29](#) and applied in accordance with said section. The contract shall contain such other provisions as the secretary for administration and finance and the authority shall agree, including, without limitation, provisions limiting any action by the authority that would materially adversely affect the financial interest of the commonwealth or actions that would constitute a default under the terms of any notes and bonds of the authority or interest rate hedge or option or similar agreement in effect as of June 30, 2004. Amounts paid by the commonwealth may be treated as revenues by the authority within the meaning of section 6 and the authority may pledge such contract and the rights of the authority to receive amounts thereunder as security for the payment of notes and bonds issued under the provisions of this chapter and any related interest rate hedge or option or similar agreements. Such contract shall constitute a general obligation of the commonwealth for which the faith and credit of the commonwealth shall be pledged for the benefit of the authority and of the holders of any notes or bonds of the authority and parties to any interest rate hedge or option or similar agreements which may be secured by a pledge of such contract or of amounts to be received by the authority under such contract.

Section 29. This chapter, being necessary for the welfare of the commonwealth and its inhabitants, shall be liberally construed to effect the purposes hereof.

*Department of Public Safety Name Change*

SECTION 162. [Section 1 of chapter 82A](#) of the General Laws, as so appearing, is hereby amended by striking out, in lines 4, 17, 28 and 33, the words "public safety" wherever they appear and inserting in place thereof the following words:- inspection and regulation.

*Department of Public Safety Name Change*

SECTION 163. [Section 2 of said chapter 82A](#), as so appearing, is hereby amended by striking out, in line 6, the words "public safety" and inserting in place thereof the following:- inspection and regulation.

*Department of Public Safety Name Change*

SECTION 164. Subsection (2) of [section 3 of said chapter 82A](#), as so appearing, is hereby amended by striking out, in line 16, the words "public safety" and inserting in place thereof the following:- inspection and regulation.

*Commercial Vehicle Regulations*

SECTION 165. [Chapter 90](#) of the General Laws, as so appearing, is hereby amended by inserting after section 19J the following section:-

Section 19K. The registrar is hereby authorized and directed to promulgate rules and regulations to ensure compliance by all interstate and intrastate motor carriers with this chapter and with:

(a) the regulations of the United States Department of Transportation, Federal Motor Carrier Safety Administration, contained in Title 49 of the Code of Federal Regulations relative to:

- (i) proof of financial responsibility;
- (ii) driver qualification files (including all required forms);
- (iii) drug and alcohol testing records as applicable;
- (iv) records of duty status and supporting documents;
- (v) driver vehicle inspection reports and maintenance records;
- (vi) hazardous materials records as applicable; and
- (vii) an accident register and copies of all accident reports required by state or other

governmental entities or insurers.

(b) sections 2, 3, 9 and 10 relative to operator licensing and registration of commercial vehicles;

(c) [section 2B of chapter 85](#), [section 31 of chapter 90](#), and any regulation established thereunder relative to transportation of freight, passengers or hazardous materials;

(d) [chapter 90F](#), relative to the operation of commercial vehicles; and

(e) any other applicable state statute pertaining to the operation of commercial motor vehicles.

The department of state police may enter, during regular business hours, the commercial premises owned or leased by any commercial carrier, wherein such records required to be maintained under the regulations established under this section are stored or maintained, and inspect, in a reasonable manner, said records for the purpose of enforcing said regulations. If such records contain evidence of violations of said regulations, the inspecting officer shall produce and take possession of copies of said records, and in the event that the entity subject to inspection does not possess copying equipment, the inspecting officer shall arrange to have copied, in a reasonable time and manner, such records that contain evidence of such violations, and the costs for such copying shall be assessed against the owner of said records.

Any carrier found to be in violation of regulations established under this section shall be subject to a civil penalty not to exceed \$500 for each offense, and each day of a violation shall constitute a separate offense; provided, however, that the total of all civil penalties assessed against any violator for all offenses relating to any single violation shall not exceed \$2,500. If it is found that a serious pattern of safety violations, other than recordkeeping requirements, exists or has occurred, a civil penalty not to exceed \$1,000 may be imposed for each offense; provided, however, that the maximum fine for each such pattern

of safety violations shall not exceed \$10,000. If it is found that a substantial health or safety violation exists or has occurred which could reasonably lead to, or has resulted in, serious personal injury or death, a civil penalty not to exceed \$10,000 for each offense may be imposed. With the exception of recordkeeping violations and violations of [chapter 90F](#) or such other regulations established under this section relating to commercial driver's licenses, as defined in [section 1 of chapter 90F](#), no civil penalty shall be imposed under this section against an employee of a motor carrier for a violation unless such employee's conduct is found to constitute gross negligence or reckless disregard for safety, in which case such employee shall be subject to a civil penalty not to exceed \$1,000. Any person found to have committed an act in violation of [chapter 90F](#) or regulations established under this section relating to commercial driver's licenses shall be subject to a civil penalty not to exceed \$2,500 for each offense.

The amount of any civil penalty, and a reasonable time for abatement of the violation, shall by written order be determined by a court of competent jurisdiction, and all penalties so recovered shall be paid to the Highway Fund of the commonwealth.

### *Waterway Licensing Process Change*

SECTION 166. [Section 18 of chapter 91](#) of the General Laws, as so appearing, is hereby amended in the third paragraph by inserting at the end thereof the following sentence:- Notwithstanding any provision of this chapter to the contrary, the department may grant a general license, subject to approval by the governor or his designee, that regulates docks, piers and other small scale, water dependent structures accessory to a residential use or serving as a noncommercial community docking facility, and shall establish in regulation procedures and standards to administer said general licenses, as deemed appropriate by the department.

### *Transfer of Parkway Operation and Maintenance*

SECTION 167. [Section 35 of chapter 92](#) of the General Laws, as amended by [sections 246 and 247 of chapter 26 of the acts of 2003](#), is hereby further amended by striking the second paragraph and inserting in place thereof the following paragraph:-

Nothing in this section authorizes the transfer of any lands, roadways or boulevards, bridges or facilities under the care, custody and control of the department of conservation and recreation and its divisions without the express prior approval of the general court.

### *Pricing Accuracy and Inspection Program*

SECTION 168. [Section 184B of chapter 94](#) of the General Laws, as so appearing, is hereby amended by striking out, in line 1, the words "sections 184C to 184E" and inserting in place thereof the following:- sections 184C to 184F.

*Pricing Accuracy and Inspection Program*

SECTION 169. Said [section 184B of said chapter 94](#), as so appearing, is hereby further amended by inserting after the definition of "Display" the following definition:-

"Division of Standards", shall mean the Division of Standards or inspectors and agents authorized to enforce the provisions of this chapter.

*Pricing Accuracy and Inspection Program*

SECTION 170. Said [section 184B of said chapter 94](#), as so appearing, is hereby further amended by inserting after the definition of "Represented price" the following definition:-

"Retail Store", every person, store, including, but not limited to, food stores, firms, partnerships, corporations, and associations, including stores that are not open to the general public and are reserved for the sole use of their members.

*Pricing Accuracy and Inspection Program*

SECTION 171. Said [chapter 94](#), as so appearing, is hereby amended by inserting after section 184E the following new section:-

Section 184F. (a) Every retail store which uses a computer-assisted check out system and has more than two cash registers for totaling customer purchases must obtain a registration certificate from the division of standards for each retail location. Applications must be submitted on a form approved by the deputy director of the division of standards. All retail stores subject to this provision shall register with the said division within 90 days of the effective date of this section. The registration shall be renewed annually commencing one year from the initial date of registration.

(b) There shall be an annual registration fee based upon the number of cash registers in each retail store at the time of application, according to the following schedule:

3 to 5 cash registers	\$100
6 to 10 cash registers	\$500
Over 10 cash registers	\$1,000

(c) Retail stores that fail to comply with the initial registration requirement, fail to timely renew their registration, or fail to pay the annual registration fee specified in subsection (b), shall pay a fine to the division of standards equal to the amount of the said fee. Failure to pay the said registration fee or to otherwise comply with the registration requirements set forth herein, shall be deemed a violation of this section and of chapter 93A.

(d) The provisions of this section shall be enforced by the division of standards. Upon presentation of appropriate credentials, division personnel shall be authorized to enter upon the premises of any retail store to inspect and to ascertain compliance with state pricing laws and regulations pursuant to [chapters 94](#) and 93A.

(e) Each retail store shall afford the said division access to the test mode of the checkout system in

use at that location or to a comparable function of said system and to the retail price information contained in a price look-up function.

(f) The said division is hereby authorized to issue a stop sale order with respect to any item offered for sale in violation of subsection (h). Any such order shall be in writing and direct that the item be removed for sale pending correction.

(g) The said division shall retain registration fees and fines, subject to appropriation, to support its enforcement activities, including, but not limited to, grants to approved agents to assist it in the enforcement of this section.

(h) In the event of violations involving food or grocery items, the division of standards shall issue fines consistent with the provisions of section 184E. For any non-food or non-grocery item that has an incorrect price sign, a missing price sign or any items that scan higher than the lowest advertised price, the retail store shall be subject to a \$100 fine for each violation of this section.

(i) A hearing may be requested in writing on any fine issued by the division of standards. The said division shall conduct the hearing and issue a written determination. Such determination may be appealed to the deputy director who after deliberation, shall issue an order accepting, modifying, or rejecting the hearing officer's determination. If the grounds for appeal are determined to be without reasonable basis, the fine shall be doubled pursuant to [section 184E of chapter 94](#).

(j) The division of standards shall implement the provisions of this chapter and shall, pursuant to [chapter 30A](#), promulgate such rules and regulations as it deems reasonably necessary to carry out such implementation.

### *Expanded Bottle Deposit Bill*

SECTION 172. [Section 321 of said chapter 94](#), as so appearing, is hereby amended by striking out, in lines 4 through 12 inclusive, the definitions of "Beverage" and "Beverage container" and inserting in place thereof the following:-

"Beverage", noncarbonated water including flavored water, fruit and vegetable juices and drinks, coffee and tea drinks, sport drinks, soda water or similar carbonated soft drinks, mineral water, beer and other malt beverages, but shall not include alcoholic beverages other than beer and malt beverages as defined in [chapter 138](#), wine and dairy products.

"Beverage container", any sealable bottle, can, jar, or carton which is primarily composed of glass, metal, plastic or any combination of those materials and is produced for the purpose of containing a beverage. This definition shall not include containers made of biodegradable material or less than 2.5 ounces. This definition shall include containers of two gallon capacity or less for carbonated beverages, beer and other malt beverages and less than one gallon for noncarbonated water including flavored water, fruit and vegetable drinks, coffee and tea drinks, and sport drinks.

### *Pricing Accuracy and Inspection Program*

SECTION 173. [Section 56D of chapter 98](#) of the General Laws, as so appearing, is hereby amended by

striking out, in lines 1, 2, 15 and 16 the words "and sealers and inspectors of weights and measures and their deputies".

*Childhood Vaccine Contribution Requirement*

SECTION 174. [Chapter 111](#) of the General Laws, as so appearing, is hereby amended by inserting after section 4L the following new section:-

Section 4M. The department of public health shall have the authority to require each health insurance carrier in the commonwealth, as defined in [chapter 176O](#), and the group insurance commission, as established pursuant to [chapter 32A](#), to contribute to the General Fund an amount determined by the department to be sufficient to cover the costs of purchasing and distributing childhood vaccines for children covered by the carrier or the group insurance commission. Such contribution shall be on an annual basis, in such manner as determined by the department.

*Department of Public Safety Name Change*

SECTION 175. [Section 51 of said chapter 111](#), as so appearing, is hereby amended by striking out, in lines 90, 95, 96, 97, 100 and 103, the words "public safety" and inserting in place thereof the following:- inspection and regulation.

*Department of Public Safety Name Change*

SECTION 176. [Section 71 of said chapter 111](#), as so appearing, is hereby amended by striking out, in lines 90 and 91, 99, 100 and 107, the words "public safety" and inserting in place thereof the following:- inspection and regulation.

*Inspector General Transfer to Comptroller*

SECTION 177. Subsection (c) of [section 7 of chapter 111H](#) of the General Laws, as so appearing, is hereby repealed.

*Inspector General Transfer to Comptroller*

SECTION 178. Subsection (b) of [section 22 of said chapter 111H](#), as so appearing, is hereby amended by

striking out, in lines 26, the words "inspector general" and inserting in place thereof the following:- state comptroller.

*Inspector General Transfer to Comptroller*

SECTION 179. Subsection (c) of [section 22 of said chapter 111H](#), as so appearing, is hereby amended by striking out, in lines 48 and 49, the words "inspector general" and inserting in place thereof the following:- state comptroller.

*Inspector General Transfer to Comptroller*

SECTION 180. Subsection (f) of [section 27 of said chapter 111H](#), as so appearing, is hereby amended by striking out, in line 45, the words "inspector general" and inserting in place thereof the following:- comptroller.

*Inspector General Transfer to Comptroller*

SECTION 181. Subsection (c) of [section 46 of said chapter 111H](#), as so appearing, is hereby amended by striking out, in line 34, the words "inspector general" and inserting in place thereof the following:- comptroller.

*Technical Clarification for Long-Term Care or Home Fusionist Pharmacy*

SECTION 182. [Section 39C of chapter 112](#) of the General Laws, as inserted by [section 306 of chapter 26 of the acts of 2003](#), is hereby amended by inserting after the first sentence the following:- Such entities are retail pharmacies and are not providers of institutional, residential or long-term care services.

*Division of Professional Licensure Oversight*

SECTION 183. [Section 61 of said chapter 112](#), as appearing in the 2002 Official Edition, is hereby amended by striking the first paragraph and inserting in place thereof the following paragraphs:-

Except as otherwise provided by law, each board of registration may, by majority vote and upon determination made after a hearing that the holder of a license, certificate, registration or authority issued by such board of registration within the division of professional licensure has engaged in any of the offenses



enumerated in this section, undertake one or more of the following actions:

- (1) suspend, revoke, cancel or place on probation such license, certificate, registration or authority;
- (2) reprimand or censure a holder;
- (3) assess upon such holder a fine not to exceed \$1,000 for each violation;
- (4) require such a holder to perform, for each violation, up to 100 hours of public service in a manner and time to be determined by the board;
- (5) require such holder to complete additional education and training as a condition of retention or future consideration or reinstatement of said, license, certificate, registration or authority;
- (6) require such holder to practice under appropriate supervision for a period of time as determined by the board as a condition of retention or future consideration of reinstatement of such license, certificate, registration or authority;
- (7) require such holder to participate in an alcohol or drug rehabilitation program or undergo drug testing, or both, as a condition of retention or future consideration of reinstatement of said license, certificate, registration authority; and
- (8) require restitution of not more than \$10,000, where appropriate.

Each board of registration may discipline the holder or license, certificate, registration or authority issued in accordance with the provisions of this section if such a holder has:

- (i) engaged in conduct which places into question the holder's competence to practice his or her profession including, but not limited to, gross misconduct or misconduct in the practice of profession, or practicing the profession fraudulently or beyond authorized scope, or with gross incompetence, or with negligence on more than one occasion;
- (ii) engaged in the practice of his or her profession while the ability to practice impaired by alcohol, drugs, physical disability or mental instability;
- (iii) violated any law, rule or regulation of the board of registration governing the practice of his or her profession;
- (iv) been convicted of a criminal offense which reasonably calls into question the holder's ability to practice his or her profession;
- (v) engaged in dishonesty, fraud or deceit which is reasonably related to the practice of his or her profession;
- (vi) knowingly permitting, aiding, or abetting an unlicensed person to perform activities requiring a license, registration or authority; or
- (vii) had a license, certificate, registration, or authority issued by another state or territory of the United States, the District of Columbia, or foreign state or nation with authority to issue such a license, certificate, registration, or authority revoked, canceled or suspended, not renewed or otherwise acted against, or the holder has been disciplined, if the basis for the action would constitute a basis for disciplinary action in the commonwealth.

Nothing in this section shall be deemed a limitation on any board's authority to impose such reasonable sanctions as deemed appropriate by the board after hearing or by a consent agreement.

### *Division of Professional Licensure Oversight*

SECTION 184. [Section 65 of said chapter 112](#), as so appearing, is hereby amended by striking out, in lines 4 and 5, the words "punished by a fine" and inserting in place thereof the following:- subject to an



administrative fine.

*Division of Professional Licensure Oversight*

SECTION 185. Said [chapter 112](#), as so appearing, is hereby further amended by inserting after section 65 the following sections:-

Section 65A. Each board of registration may assess and collect a fine of up to \$1,000 for each violation upon any person who practices any trade or profession at a time when his or her license, certificate, registration or authority to do so is not valid because it has been suspended, revoked or canceled under authority of this chapter, and upon any person who knowingly practices any trade or profession at a time when his or her license, certificate, registration or authority authorizing him or her to do so has expired. Each board may make application to the appropriate court for an order enjoining unlicensed practice and obtaining a restraining order or other order as may be appropriate.

Section 65B. Except as otherwise permitted by law, each board of registration, after a hearing held pursuant to [chapter 30A](#) before any such board having jurisdiction, may assess and collect a fine of up to \$1,000 for each violation upon any person who, without holding the required license, certificate, registration, or authority, engages in the practice of any trade or profession for which a license, certificate, registration, or authority is required. Nothing contained in this section shall be construed as affecting, restricting, diminishing or limiting any other existing penalty or remedy provided by law. Each board may make application to the appropriate court for an order enjoining unlicensed practice, or ordering payment of any assessed fine, or both. Upon a showing by the board that such person has engaged in unlicensed practice, an injunction, restraining order or other order as may be appropriate shall be granted by the court.

Section 65C. Each board of registration which has jurisdiction over a licensee whose continued practice poses an immediate and serious threat to the public health, safety or welfare may suspend or refuse to renew the holder's license, certificate, registration, or authority pending a hearing on the merits of the allegation against the holder; provided, that the board shall hold a hearing pursuant to [chapter 30A](#) on the necessity for the emergency action within 10 days of the action. The board shall issue to the licensee a written summary suspension which specifies the findings of the board and the reasons for its summary suspension and which includes notice of the date, time and place of the aforementioned 10 day hearing. At the request of the licensee the board may reschedule this hearing to a date and time mutually agreeable to the board and licensee. Any such rescheduling of the hearing granted at the licensee's request shall not operate to lift or stay the summary suspension order. If such hearing is not held within 10 days of the board's emergency action, the license, certificate, registration, or authority against which action was taken shall be deemed reinstated. At the adjudicatory hearing on the necessity for summary suspension, the board shall receive evidence limited to determining whether the summary suspension order shall continue in effect pending the final disposition of the complaint. Following such hearing, any continuing suspension imposed by a board shall remain in effect until the conclusion of any formal proceeding on the merits of the allegations against the holder, including judicial review thereof or withdrawn by such board. The division after proper notice and hearing shall adopt rules and regulations governing the emergency suspension procedure authorized by this section.

Section 65D. Any complaint, report, record or other information received or kept by any board of registration within the division of professional licensure in connection with an investigation shall be considered to be a

public record only following the issuance of an order to show cause or final action by the board. Prior to the issuance of an order to show cause or final action each board may keep confidential any complaint, report, record or other information received or made in connection with an investigation conducted by the board; provided, however, that the identity of the person filing a complaint shall be exempt from disclosure as a public record at all times, except to the extent that a licensee may be entitled to such information for the purposes of preparing a defense in a formal adjudicatory hearing. The requirement that investigative records or information be kept confidential shall not apply to requests from other state or federal agencies, boards or institutions.

Meetings of the boards held for the purpose of conducting investigative conferences related to a complaint shall not be considered open meetings within the meaning of [section 11A½ of chapter 30A](#).

Section 65E. After a complaint has been filed with any of the boards of registration alleging that any holder of a license, certificate, registration, or authority issued by any of the boards may be incompetent or unable to practice his or her profession or trade with reasonable skill and safety because such holder's ability to practice is impaired due to mental illness or physical illness, the board may order such holder to be examined by one or more physicians or psychotherapists approved by the board at the board's expense. If the individual fails or refuses to comply with an order by the board for such examination, and upon reasonable notice to the holder, the board may apply to superior court for an order compelling the holder to submit to such examination. If the board's application is granted, the court may, after opportunity for hearing, require the individual to pay the board its reasonable expenses incurred in obtaining the order, including attorney's fees, unless the court finds an award of expenses unjust. The holder's failure to comply with a court order issued under this section shall constitute grounds for disciplinary action by the board, including but not limited to the sanctions listed in section 61. The report of the examiners shall be made available to the holder and may be received as direct evidence in formal adjudicatory proceedings. Said report shall remain confidential except to the extent it is disclosed in such proceedings.

Section 65F. All fines assessed pursuant to sections 65A through 65E of this chapter shall be deposited in the General Fund.

### *Cremation of Bodies Requirement*

SECTION 186. [Section 44 of chapter 114](#) of the General Laws, as so appearing, is hereby amended by striking the first sentence and inserting in place thereof the following sentence:- The body of a deceased person shall not be cremated within 48 hours after his decease unless he died of a contagious or infectious disease, and, if the death occurred within the commonwealth, the body shall not be cremated by any corporation authorized to cremate the bodies of the dead until its officers have received the certificate or burial permit required by law before burial, and a certificate from a medical examiner or similarly authorized person that he has viewed the body and made personal inquiry into the cause and manner of death, and is of opinion that no further examination or judicial inquiry concerning the same is necessary.

### *Department of Transitional Assistance Name Correction*

SECTION 187. [Section 1 of chapter 117A](#) of the General Laws, as so appearing, is hereby amended by striking the first sentence and inserting in place thereof the following sentences:- There is hereby established within the department of transitional assistance a program of transitional supplemental security income for residents of the commonwealth found by the department to be eligible for such aid, pursuant to regulations promulgated by the department and subject to appropriation. In making determinations of disability, the department shall use the same standards as those of the program under Title XVI of the Social Security Act, except that a person who meets the standards for a period of at least 60 days shall be considered disabled under this chapter.

#### *Transitional Supplemental Security Income Reform*

SECTION 188. Said [chapter 117A](#), as so appearing, is hereby amended by striking out sections 3 and 4 and inserting in place thereof the following sections:-

Section 3. A person shall not be eligible for assistance under the provisions of this chapter if the person is eligible to receive assistance under [chapter 115](#) or [chapter 118](#) or who would be eligible under [chapter 118](#) but for income or assets or who is eligible to receive unemployment compensation under [chapter 151A](#). In making determinations of disability under this chapter, the department shall use the same standards as those of the program under Title XVI of the Social Security Act, except that the expected duration of the disability must be at least 60 days. The monthly payment standard for the program shall equal the monthly payment standard in effect under the general relief program in fiscal year 1991, unless the department of transitional assistance determines that a reduction in the monthly payment standard should be implemented before the end of the fiscal year to keep program expenditures within the limits established by the existing fiscal year appropriation. Notwithstanding any such reduction in the monthly payment standard, the department may continue to provide payments for eligible individuals in rest homes.

The department shall not consider ex-offenders, persons over the age of 45 with no recent work history, or persons in residential treatment facilities as eligible solely by virtue of such status.

Section 4. A person shall be eligible for benefits under this chapter only if the person is either a citizen of the United States or the department determines the person would meet the eligibility standards for noncitizens under the program established by Title XVI of the Social Security Act.

#### *TAFDC Reform*

SECTION 189. [Section 3 of chapter 118](#) of the General Laws, as so appearing, is hereby amended by inserting after the word "disability." in line 46, the following new sentence:- In making determinations of disability, the department shall use the same standards as those of the program under Title XVI of the Social Security Act, except that a person who meets the standards for a period of at least 30 days shall be considered disabled under this chapter.

*MassHealth Demonstration Project Reporting Requirements*

SECTION 190. Subsection (1) of [section 9A of chapter 118E](#) of the General Laws, as so appearing, is hereby amended by striking out, in lines 30 and 31, the definition of "MassHealth".

*MassHealth Demonstration Project Reporting Requirements*

SECTION 191. Subsection (2) of [section 9A of chapter 118E](#), as amended by [sections 314 and 315 of chapter 26 of the acts of 2003](#), is hereby further amended by striking out, in lines 58 and 59, the words "and the provisions of section nine B".

*MassHealth Demonstration Project Reporting Requirements*

SECTION 192. [Section 9B of chapter 118E](#) of the General Laws, as so appearing, is hereby repealed.

*MassHealth Demonstration Project Reporting Requirements*

SECTION 193. Subsection (7) of [section 9C of chapter 118E](#) of the General Laws, as so appearing, is hereby amended by striking out, in lines 132 and 133, the words ", including changes necessary to ensure compliance with the budget neutrality requirements of section 9B".

*MassHealth Demonstration Project Reporting Requirements*

SECTION 194. Subsection (13) of [section 9C of said chapter 118E](#), as amended by [section 37 of chapter 9 of the acts of 2003](#), is further amended by striking the following words:- and shall be further subject to the requirements of the budget neutrality plan established by section 9B.

*Personal Care Attendant Standards and Regulations*

SECTION 195. [Section 12 of said chapter 118E](#), as so appearing, is hereby amended in the first paragraph by inserting at the end thereof the following sentence:- Without limiting the generality of the foregoing and notwithstanding the provisions of any general or special law to the contrary, the division may also develop or amend any standards and regulations applicable to personal care attendant services as the division determines to be necessary and appropriate for the proper and efficient operation of the programs

established under this chapter.

*MassHealth - Status as Payor of Last Resort*

SECTION 196. [Section 23 of said chapter 118E](#), as amended by [section 325 of chapter 26 of the acts of 2003](#), is hereby further amended by inserting at the beginning thereof the following paragraph:-

As used in this section, health care insurer, health insurer and health insurance shall include, but not be limited to, any health insurance company, health maintenance organization, group or non-group health plan, self-insured plan, or any other private or public program, plan, or entity that provides, arranges, or pays for any health, accident, or sickness benefits.

*MassHealth - Status as Payor of Last Resort*

SECTION 197. [Section 23 of said chapter 118E](#), as so amended, is hereby further amended by striking the first sentence of the first paragraph and inserting in place thereof the following sentence:- Notwithstanding the provisions of any general or special law, rule or regulation to the contrary, the division shall be subrogated to the rights of any recipient of medical assistance under this chapter and may take any and all actions available to such recipient to secure benefits under any policy issued by any health care insurer that is or may be liable to pay for covered services obtained by a recipient of medical assistance to the extent of any medical benefits provided by the division on behalf of the recipient or his or her dependents.

*Public Housing Reform*

SECTION 198. [Section 7 of chapter 121B](#) of the General Laws, as so appearing, is hereby amended in the second paragraph by striking out the second sentence and inserting in place thereof the following:- A housing authority may compensate its members appointed or elected prior to January 1, 2003 for each day spent in the performance of their duties and for such other services as they may render to the authority in connection with projects commenced prior to July 1, 1965. Such compensation shall not exceed \$50 a day for the chairman and \$40 a day for a member other than the chairman; provided, that the total sum paid to all the members in any one month or year shall not exceed 2 per cent of the gross income of the housing authority during such month or year, respectively, nor shall the total sum paid in any year exceed \$1,000 in the case of the chairman or \$500 in the case of a member other than the chairman.

*Department of Public Safety Name Change*

SECTION 199. [Section 26 of said chapter 121B](#), as so appearing, is hereby amended by striking out, in line 109, the words "public safety" and inserting in place thereof the following:- inspection and regulation.

*Public Housing Reform*

SECTION 200. [Section 32 of said chapter 121B](#), as amended by [section 366 of chapter 26 of the acts of 2003](#), is hereby further amended by inserting after the third sentence, the following new sentences:- In no instance shall a tenant household pay a rental fee of less than \$50 per bedroom per household, provided that exceptions to payment of such minimum rent shall be allowed in accordance with regulations issued by the department. An authority shall grant an exemption from application of the minimum monthly rent to any resident unable to pay such amount because of severe financial hardship, which shall include situations in which: the family is awaiting an eligibility determination for an application for any federal, state, or local assistance program, the tenant would be evicted as a result of the imposition of the minimum rent requirements, the income of the tenant has decreased because of changed circumstances, including loss of employment, the occurrence of a death in the household, and such other severe financial hardship situations as may be determined by the housing authority. If a resident requests a hardship exemption and the authority reasonably determines the hardship to be of a temporary nature, an exemption shall not be granted during the 90-day period beginning upon the making of the request for the exemption. A resident may not be evicted during such 90-day period for nonpayment of rent. In such a case, if the resident thereafter demonstrates that the financial hardship is of a long-term nature, the authority shall retroactively exempt the resident from the applicability of the minimum rent requirements for such 90-day period.

*Public Housing Reform*

SECTION 201. [Section 41 of said chapter 121B](#), as appearing in the 2002 Official Edition, is hereby amended by inserting at the end thereof the following sentence:- In the event that the housing authority and the department find that a project or portion thereof is surplus to the anticipated need for the housing financed under this section and that the department finds (i) that the housing authority has maintained the project or portions thereof in decent, safe and sanitary condition and has made diligent reasonable efforts to find eligible and qualified occupants for the units and (ii) that sufficient eligible and qualified occupants cannot be found to occupy the project or portion thereof, the housing authority with the approval of the department may change the use of such project or portion thereof to the use set out in section 34 of this chapter without repayment to the Housing Authority Bonds Sinking Fund on account of such change in use.

*Public Housing Reform*

SECTION 202. [Section 41A of said chapter 121B](#), as so appearing, is hereby amended by inserting at the end thereof the following sentence:- In the event that the housing authority and the department find that a project or portion thereof is surplus to the anticipated need for the housing financed under this section and that the department finds (i) that the housing authority has maintained the project or portions thereof in decent, safe and sanitary condition and has made diligent efforts to find eligible and qualified occupants for

the units and (ii) that sufficient eligible and qualified occupants cannot be found to occupy the project or portion thereof, the housing authority with the approval of the department may change the use of such project or portion thereof to the use set out in section 34 of this chapter without repayment to the Housing Authority Bonds Sinking Fund on account of such change in use.

*State Police and State Racing Commission*

SECTION 203. [Section 8 of chapter 128A](#) of the General Laws, as so appearing, is hereby amended by striking out the words, in lines 1, 2, 15, and 33, "public safety" and inserting in place thereof the following:- state police.

*State Police and State Racing Commission*

SECTION 204. Said [section 8 of said chapter 128A](#), as so appearing, is hereby further amended by striking out, in line 18, the words "commissioner of public safety" and inserting in place thereof the following:- colonel of state police.

*Natural Heritage and Endangered Species Fund*

SECTION 205. [Chapter 131A](#) of the General Laws, as so appearing is hereby amended by inserting at the end thereof the following new section:-

Section 7. The director is authorized to establish fees for environmental review and assessment pursuant to this chapter, the amount of which shall be determined in accordance with the provisions of [section 3B of chapter 7](#). Monies received by the commonwealth from fees collected under the provisions of this chapter shall be credited to the Natural Heritage and Endangered Species Fund, established by section 35D of chapter 10.

*Alcoholic Beverage Control Commission Transfer to Public Safety*

SECTION 206. [Section 1 of chapter 138](#) of the General Laws, as amended by [section 411 of chapter 26 of the acts of 2003](#), is hereby further amended by striking out, in the definition of "Commissioner" the words "[section 70 of chapter 10](#)" and inserting place thereof the following:- chapter 22F.

*Alcoholic Beverage Control Commission Transfer to Public Safety*



SECTION 207. [Section 24 of said chapter 138](#), as amended by [section 33 of chapter 140 of the acts of 2003](#), is hereby further amended by striking out, in the first sentence, the word "treasurer" and inserting in place thereof the following:- secretary of public safety.

*Department of Public Safety Name Change*

SECTION 208. [Section 180C of chapter 140](#) of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by striking out, in line 21, the words "public safety" and inserting in place thereof the following:- inspection and regulation.

*Department of Public Safety Name Change*

SECTION 209. [Section 205A of said chapter 140](#), as so appearing, is hereby amended, by striking out, in line 5, the words "public safety" and inserting in place thereof the following:- inspection and regulation.

*Department of Public Safety Name Change*

SECTION 210. [Section 17 of chapter 142](#) of the General Laws, as so appearing, is hereby amended by striking out, in lines 20 and 25, the words "public safety" and inserting in place thereof the following:- inspection and regulation.

*Department of Public Safety Name Change*

SECTION 211. [Section 1 of chapter 143](#) of the General Laws, as so appearing, is hereby amended by striking out, in lines 15 and 16, the words "public safety" and inserting in place thereof the following:- inspection and regulation.

*Department of Public Safety Name Change*

SECTION 212. [Section 62A of said chapter 143](#), as so appearing, is hereby amended by striking out, in line 6, the words "public safety" and inserting in place thereof the following:- inspection and regulation.



*Department of Public Safety Name Change*

SECTION 213. [Section 68 of said chapter 143](#), as so appearing, is hereby amended by striking out, in lines 8 and 9, the words "public safety" and inserting in place thereof the following:- inspection and regulation.

*Department of Public Safety Name Change*

SECTION 214. [Section 71B of said chapter 143](#), as so appearing, is hereby amended by striking out, in line 14, the words "public safety" and inserting in place thereof the following:- inspection and regulation.

*Department of Public Safety Name Change*

SECTION 215. [Section 72 of said chapter 143](#), as so appearing, is hereby amended by striking out, in line 7, the words "public safety" and inserting in place thereof the following:- inspection and regulation.

*Department of Public Safety Name Change*

SECTION 216. [Section 73 of said chapter 143](#), as so appearing, is hereby amended by striking out, in line 3, the words "public safety" and inserting in place thereof the following:- inspection and regulation.

*Department of Public Safety Name Change*

SECTION 217. [Section 84 of said chapter 143](#), as so appearing, is hereby amended by striking out, in line 4, the words "public safety" and inserting in place thereof the following:- inspection and regulation.

*Department of Public Safety Name Change*

SECTION 218. [Section 85 of said chapter 143](#), as so appearing, is hereby amended by striking out, in line 2, the words "public safety" and inserting in place thereof the following:- inspection and regulation.

*Department of Public Safety Name Change*

SECTION 219. [Section 93 of said chapter 143](#), as so appearing, is hereby amended by striking out, in lines 2 and 8, the words "public safety" and inserting in place thereof the following:- inspection and regulation.

*Department of Public Safety Name Change*

SECTION 220. [Section 100 of said chapter 143](#), as so appearing, is hereby amended by striking out, in line 1, the words "public safety" and inserting in place thereof the following:- inspection and regulation.

*Department of Public Safety Name Change*

SECTION 221. [Section 1 of chapter 146](#) of the General Laws, as so appearing, is hereby amended by striking out, in lines 13, 14, 15, 16, and 18 the words "public safety" and inserting in place thereof the following:- inspection and regulation.

*Department of Public Safety Name Change*

SECTION 222. [Section 6 of said chapter 146](#), as so appearing, is hereby amended by striking out, in line 8, the words "public safety" and inserting in place thereof the following:- inspection and regulation.

*Department of Public Safety Name Change*

SECTION 223. [Section 50 of said chapter 146](#), as so appearing, is hereby amended by striking out, in lines 65 and 66, the words "public safety" and inserting in place thereof the following:- inspection and regulation.

*Department of Public Safety Name Change*

SECTION 224. [Section 50A of said chapter 146](#), as so appearing, is hereby amended by striking out, in line 53, the words "public safety" and inserting in place thereof the following:- inspection and regulation.

*Department of Public Safety Name Change*

SECTION 225. [Section 85A of said chapter 146](#), as so appearing, is hereby amended by striking out, in line 3, the words "public safety" and inserting in place thereof the following:- inspection and regulation.

*Department of Public Safety Name Change*

SECTION 226. [Section 1 of chapter 147](#) of the General Laws, as so appearing, is hereby amended by striking out, in lines 1 and 4, the words "public safety" and inserting in place thereof the following:- inspection and regulation.

*Removal of Police Powers from Department of Public Safety*

SECTION 227. [Section 2 of said chapter 147](#), as so appearing, is hereby amended by striking the first and second sentences.

*Department of Public Safety Name Change*

SECTION 228. [Section 56 of said chapter 147](#), as so appearing, is hereby amended by striking out, in line 5, the words "public safety" and inserting in place thereof the following:- inspection and regulation.

*Department of Public Safety Name Change*

SECTION 229. [Section 116 of chapter 149](#) of the General Laws, as so appearing, is hereby amended by striking out, in line 2, the words "public safety" and inserting in place thereof the following:- inspection and regulation.

*Department of Public Safety Name Change*

SECTION 230. [Section 129D of said chapter 149](#), as so appearing, is hereby amended by striking out, in lines 1 and 4, the words "public safety" and inserting in place thereof the following:- inspection and regulation.

*Labor Relations Reform*

SECTION 231. [Section 1 of chapter 150E](#) of the General Laws, as so appearing, is hereby amended by inserting after the third paragraph the following definition:-

"Confidential Employee", any person that directly assists and acts in a confidential capacity to a person or persons otherwise excluded from coverage under this chapter.

*Labor Relations Reform*

SECTION 232. Said [section 1 of said chapter 150E](#), as so appearing, is hereby amended by striking the definition of "Employee" or "public employee" and inserting in place thereof the following:-

"Employee" or "public employee", any person in the executive or judicial branch of a government unit employed by a public employer except elected officials, appointed officials, members of any board or commission, representatives of any public employer, including the heads, directors and executive and administrative officers of departments and agencies of any public employer, and other managerial employees or confidential employees, and members of the militia or national guard and employees of the commission, and officers and employees within the departments of the state secretary, state treasurer, state auditor and attorney general.

*Alcoholic Beverage Control Commission Transfer to Public Safety*

SECTION 233. Said [section 1 of said chapter 150E](#), as amended by [section 35 of chapter 140 of the acts of 2003](#), is hereby further amended by striking out the last sentence from the definition of "employer" or "public employer".

*Labor Relations Reform*

SECTION 234. Said [section 1 of said chapter 150E](#), as appearing in the 2002 Official Edition, is hereby further amended by inserting after the ninth paragraph, the following definition:-

"Managerial employee", any individual in a position in which the principal functions are characterized by one of the following: (1) responsibility for direction of a subunit or facility of a major division of an agency or assignment to an agency head's staff; (2) development, implementation and evaluation of goals and objectives consistent with agency mission and policy; (3) participation in the formulation of agency policy; (4) a role in the preparation or administration of collective bargaining agreements or personnel decisions, or both, including staffing, hiring, firing, evaluation, promotion and training of employees; and (5) responsibility involving the exercise of independent judgment of an appellate responsibility.

*Alcoholic Beverage Control Commission Transfer to Public Safety*

SECTION 235. [Section 7 of said chapter 150E](#), as amended by [section 36 of chapter 140 of the acts of 2003](#), is hereby further amended by striking the words ", the alcoholic beverage control commission" wherever they appear.

*Reunification of Labor and Workforce Development*

SECTION 236. [Section 1 of chapter 151A](#) of the General Laws, as amended by [section 581 of chapter 26 of the acts of 2003](#), is hereby further amended by striking paragraph (g) and inserting in place thereof the following paragraph:-

(g) "Department", the division of unemployment assistance within the department of labor and workforce development.

*Reunification of Labor and Workforce Development*

SECTION 237. [Section 58 of said chapter 151A](#), as amended by [section 583 of chapter 26 of the acts of 2003](#), is hereby further amended by striking out paragraph (g) and inserting in place thereof the following paragraph:-

(g) Funds from this account shall be used to support the administration and operation of this chapter, and shall be used to contract with the department of labor and workforce development for space required to maintain walk-in services, including the provision of general information, application assistance, claims information and orientation, under this chapter.

*Reunification of Labor and Workforce Development*

SECTION 238. [Section 61 of said chapter 151A](#), as amended by [section 584 of chapter 26 of the acts of 2003](#), is hereby further amended by striking out the second paragraph and inserting in place thereof the following paragraph:-

For the purpose of maintaining free employment offices, the division of unemployment assistance shall enter into agreement with the department of labor and workforce development, and shall reimburse the department of labor and workforce development for the cost of providing space and administrative services in said employment offices for the proper administration of this chapter.

*Reunification of Labor and Workforce Development*

SECTION 239. Subsection (a) of [section 62A of said chapter 151A](#), as amended by [section 585 of chapter 26 of the acts of 2003](#), is hereby amended by striking out the words "department of workforce development" and inserting in place thereof the following:- department of labor and workforce development.

*Reunification of Labor and Workforce Development*

SECTION 240. Subsection (b) of [section 62A of said chapter 151A](#), as amended by [section 586 of chapter 26 of the acts of 2003](#), is hereby further amended by striking out the words "department of workforce development" and inserting in place thereof the following:- department of labor and workforce development.

*Reunification of Labor and Workforce Development*

SECTION 241. Said [chapter 151A](#), as amended by [section 587 of chapter 26 of the acts of 2003](#), is hereby further amended by striking out section 71D and inserting in place thereof the following section:-

Section 71D. Subject to appropriation, the director of labor and workforce development, in coordination with the secretary and with any other appropriate agency, shall establish a reemployment assistance program to provide counseling, placement, training, and any other services deemed necessary, to employees terminated in plant closings and partial closings which will lead to the reemployment of said employees. Such services shall be provided either at a plant-closing site, at one-stop career centers or at a site provided by any other appropriate agency. Said reemployment assistance program shall be administered by the director of labor and workforce development and the director of business and technology through the industrial services program. Participation in said program when said program is available shall be a requirement for eligibility for reemployment assistance benefits established pursuant to section 71F.

*Division of Insurance Duplicate License Fee*

SECTION 242. [Section 14 of chapter 175](#) of the General Laws, as amended by [section 444 of chapter 26 of the acts of 2003](#), is hereby further amended by adding the following clause:- For each duplicate of a license issued under any section of this chapter.

*Early Intervention Services Insurance Cap*

SECTION 243. [Section 47C of said chapter 175](#), as appearing in the 2002 Official Edition, is hereby amended by striking out the last sentence of the third paragraph and inserting in place thereof the following sentence:- Reimbursement of costs for such services shall be part of a basic benefits package offered by the insurer or a third party, with a maximum benefit of \$5,200 per year per child and an aggregate benefit of

\$15,600 over the total enrollment period.

*Early Intervention Services Insurance Cap*

SECTION 244. [Section 8B of chapter 176A](#) of the General Laws, as so appearing, is hereby amended by striking out the last sentence of the third paragraph and inserting in place thereof the following sentence:- Reimbursement of costs for such services shall be part of a basic benefits package offered by the insurer or a third party, with a maximum benefit of \$5,200 per year per child and an aggregate benefit of \$15,600 over the total enrollment period.

*Early Intervention Services Insurance Cap*

SECTION 245. [Section 4C of chapter 176B](#) of the General Laws, as so appearing, is hereby amended by striking out the last sentence of the third paragraph and inserting in place thereof the following sentence:- Reimbursement of costs for such services shall be part of a basic benefits package offered by the insurer or a third party, with a maximum benefit of \$5,200 per year per child and an aggregate benefit of \$15,600 over the total enrollment period.

*Early Intervention Services Insurance Cap*

SECTION 246. [Section 4 of chapter 176G](#) of the General Laws, as so appearing, is hereby amended in the second paragraph by striking the last sentence and inserting in place thereof the following sentence:- Reimbursement of costs for such services shall be part of a basic benefits package offered by the insurer or a third party, with a maximum benefit of \$5,200 per year per child and an aggregate benefit of \$15,600 over the total enrollment period.

*Boston Municipal Court and District Court Administrative Consolidation*

SECTION 247. [Chapter 211B](#) of the General Laws, as so appearing, is hereby amended by striking section 1 and inserting in place thereof the following section:-

Section 1. There shall be a trial court of the commonwealth which shall consist of the following departments: the superior court department, the housing court department, the land court department, the probate and family court department, the juvenile court department, and the district court department. The trial court, as an administrative unit, shall consist of no more than 378 justices and special justices. There shall be selected as herein after provided, a chief justice for administration and management and a chief justice for each of the departments of the trial court; provided however, there shall be one chief justice who shall serve

as the chief justice for the district court department, including all divisions previously within the Boston Municipal Court Department.

*Boston Municipal Court and District Court Department Consolidation*

SECTION 248. [Section 2 of said chapter 211B](#), as amended by [section 449 of chapter 26 of the acts of 2003](#), is hereby further amended by striking the first sentence and inserting in place thereof the following sentence:- There shall be 82 justices appointed to the superior court department, 10 justices appointed to the housing court department, 6 justices appointed to the land court department, 51 justices appointed to the probate and family court department, 41 justices appointed to the juvenile court department, and 188 justices appointed to the district court department.

*Boston Municipal Court and District Court Department Consolidation*

SECTION 249. [Section 9A of said chapter 211B](#), as appearing in the 2002 Official Edition, is hereby amended by striking, in line 28, the words "Boston municipal" and inserting in place thereof the following:- district.

*Boston Municipal Court and District Court Department Consolidation*

SECTION 250. [Section 10B of said chapter 211B](#), as so appearing, is hereby amended by striking subparagraph (a) and inserting in place thereof the following subparagraph:-

(a) The exclusive authority to select and appoint assistant clerks in the district court, juvenile court and housing court shall be vested in the clerks of said courts and such authority shall not be subject to the review or approval of any other person, except as provided in this section.

*Boston Municipal Court and District Court Department Consolidation*

SECTION 251. [Section 13 of said chapter 211B](#), as so appearing, is hereby amended in the first sentence by striking the following words:- Boston municipal.

*Boston Municipal Court and District Court Department Consolidation*

SECTION 252. Said [section 13 of said chapter 211B](#), as so appearing, is hereby further amended in the



second paragraph by striking the word "housing, and Boston municipal" and inserting in place thereof the following:- and housing.

*Boston Municipal Court and District Court Department Consolidation*

SECTION 253. [Section 17 of said chapter 211B](#), as so appearing, is hereby amended in the fourth sentence of the second paragraph by striking the following words:- Boston municipal.

*CPCS Reform - Conflict of Interest*

SECTION 254. [Section 1 of chapter 211D](#) of the General Laws, as so appearing, is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraph:-

The provisions of [chapter 268A](#) shall apply to all members, officers and employees of the committee. No member of the committee may have any direct or indirect financial interest in any matter within the scope of the committee's duties and responsibilities.

*CPCS Reform - Statutory Definition of Indigency*

SECTION 255. Said [chapter 211D](#), as so appearing, is hereby amended by striking out section 2 and inserting in place thereof the following section:-

Section 2. The committee for public counsel shall establish uniform standards and procedures for the determination by the courts of the commonwealth that a person who is entitled by law to counsel in criminal or civil proceedings is destitute, indigent or marginally indigent and unable to obtain counsel at the prevailing rates of private counsel. Said standards and procedures, and any amendments thereto, shall be subject to the approval of the supreme judicial court and shall be used by the courts of the commonwealth in determining the assignment of cases to the committee pursuant to section 5. Notwithstanding the provisions of any special or general law to the contrary, persons determined to be destitute shall pay no fee for the services of assigned counsel; persons determined to be indigent shall pay \$150 for the services of assigned counsel; and persons determined to be marginally indigent shall pay \$300 for the services of assigned counsel, plus any additional amounts ordered to be paid by the justice making the appointment.

For purposes of this making such a determination, "indigent person" shall be defined to have the same meaning as [section 27A of chapter 261](#) unless the court finds after inquiry that the person is destitute. A "destitute person" is defined as a person who is indigent and also has no ability to pay \$150 for the costs of counsel within a 60 day period without depriving himself or his dependents of food, habitable shelter or basic necessities of life; provided that no judge shall have discretion to find a person destitute unless the judge first conducts an inquiry of the person under oath and makes specific written findings in the case docket. For purposes of such inquiry, the following circumstances shall create a rebuttable presumption that the person is not destitute: the person smokes at least a pack of cigarettes daily; the person resides in a household with cable television service; the person resides in a household with internet service; the person

owns a motor vehicle for personal use that is less than 3 years old or with a book value greater than \$25,000; the person owns two or more functional motor vehicles for personal use; the person resides in a household with telephone service and the person also has a mobile telephone for personal use; the person resides in a household with telephone service and the person has a pager or similar personal electronic device for personal use; the person has any ownership interest in real estate, boat or recreational vehicle for personal use, money market account, certificate of deposit, bank account, stocks or bonds valued more than \$150; the person has one or more credit cards with available cash advance credit limit of at least \$150; the person is claimed as a dependent by a parent or guardian or who is substantially supported by a parent or guardian who possesses any of the foregoing assets unless that parent or guardian has an adverse interest in the case or the legal guardian is the commonwealth; or the person admits on inquiry by the court that he has the ability to pay \$150 over a 60 day period. A "marginally indigent" person is defined as a person who is neither destitute nor indigent but has an annual income, after taxes, of more than 125 per cent and less than 250 per cent of the then current poverty threshold referred to in clause (b) of the definition of "indigent" in [section 27A of chapter 261](#) of the General Laws; who has insufficient funds to pay for counsel at the prevailing rates of private counsel and who has the ability to pay \$300 or any additional amount determined after inquiry by the justice making the assignment.

Payment of any counsel fees by persons who are indigent or marginally indigent shall be made to the probation department of the appointing court, and shall otherwise be deposited in the General Fund

#### *CPCS Reform - Client Fraud Repayment*

SECTION 256. Said [chapter 211D](#), as so appearing, is hereby amended by inserting after section 2A the following new section:-

Section 2B. Notwithstanding the provisions of any general or special law to the contrary, the committee shall be authorized to contract with private counsel on a contingent fee basis to collect the fair market value of attorney services provided to any defendant who materially underestimates or misrepresents his income or assets or ability to pay to qualify for legal representation intended for destitute, indigent or marginally indigent persons appearing before the trial court. For purposes of this section, there shall be a rebuttable presumption that the fair market value of services rendered in all departments of the trial court except the superior court department is \$5,000; in cases involving at least one felony in the district court department, Boston municipal court department, juvenile court department and housing court department, there shall be a rebuttable presumption that the fair market value of services rendered is \$7,500; and there shall be a rebuttable presumption that the fair market value of cases in the superior court is \$10,000. The committee shall retain revenues up to \$3,000,000, net of attorney's fees, generated through its collection activity pursuant to this section.

#### *CPCS Reform - Bar Advocate Indemnification*

SECTION 257. Said [chapter 211D](#), as so appearing, is hereby amended by inserting after section 4 the following new section:-

Section 4A. The commonwealth shall defend and indemnify any private counsel assigned or

appointed by the committee to represent clients in criminal or noncriminal proceedings for any claim or cause of action arising out of the legal representation provided to the client by the private counsel; provided, however, that the commonwealth shall not be required to defend or indemnify any private counsel for intentional conduct, or acts or omissions arising outside the scope of his representation of the client pursuant to the committee's assignment.

#### *CPCS Reform - Use of Staff Counsel in Western Counties*

SECTION 258. Clause (a) of [section 6 of said chapter 211D](#), as so appearing, is hereby amended by inserting at the end thereof the following new paragraph:-

(vi) notwithstanding the provisions of any special or general law to the contrary, said division shall be assigned in any civil or criminal matter described in clause (b) of this section where the chief counsel determines in writing that insufficient numbers of qualified attorneys are available for assignment by the private counsel division in courts located in Hampden, Hampshire, Franklin or Berkshire counties.

#### *CPCS Reform - Retainer Based Defined Compensation*

SECTION 259. Said [chapter 211D](#), as so appearing, is hereby amended by inserting after section 6A the following new sections:-

Section 6B. Bar advocates and attorneys assigned by the private counsel division of the committee for public counsel shall be compensated by retainer-based defined compensation in accordance with section 6C, except where all members of the committee certify in writing that the assigned case presents unusual and extraordinary circumstances that require additional legal services adequately to safeguard the constitutional rights of the person represented. In such unusual and extraordinary circumstances, in addition to the retainer-based defined compensation in accordance with section 6C, bar advocates and private attorneys shall be compensated \$45 hourly for legal services before trial and \$60 hourly for legal services at trial in all court departments except the superior court and \$60 hourly for legal services before trial and \$90 hourly for legal services at trial in the superior court department.

Section 6C. Notwithstanding the provisions of any general or special law to the contrary, on July 1 of each fiscal year, all bar advocates and attorneys assigned by the private counsel division (collectively referred to as "private counsel") shall be paid a retainer of \$10,000. All attorneys who become private counsel during the fiscal year shall be paid a retainer of \$10,000 upon their qualification as private counsel. Said retainer shall be deposited into each private counsel's Interest on Lawyer Trust Account governed by Rule 1.15 of the Massachusetts Rules of Professional Conduct, herein referred to as an IOLTA account, and be withdrawn as monies are earned in accordance with section 6D. When the amount of the retainer balance is \$1,000 or less, the private counsel shall notify the committee in writing and shall receive an additional retainer of \$10,000 within 30 days. On June 30 of each fiscal year, unearned retainers shall be returned to the committee. All interest accrued on such retainers in each private counsel's IOLTA account shall be remitted to the committee on the last day of each month or on such schedule as otherwise determined appropriate by the committee. The committee shall undertake enforcement of this section with the board of bar overseers as well as institute civil proceedings to recover any unearned retainer or interest accrual that is not returned by participating attorneys.

Section 6D. Private counsel may submit written invoices to the committee and earn funds from their retainers in accordance with the following schedule of defined compensation:

(a) For criminal or delinquency cases in district, juvenile, housing and probate and family court departments, excluding youthful offender cases in the juvenile court: (i) a total of \$30 for all of the following events in each assigned case: bail only appearances, probation detention hearing, bail revocation hearing, competency or responsibility hearing at arraignment, and limited appearances prior to or at arraignment. A copy of the Notice of Assignment of Counsel form accompanied by an invoice describing the bail only or limited appearance shall be sufficient proof of such services for purposes of payment; (ii) a total of \$175 for pretrial representation, including any arraignment, pretrial conference, pretrial hearing, discovery-related motions, compliance/election events, probable cause hearing, trial assignment date, continuances, motions and affidavits where no brief is required under the Massachusetts Rules of Criminal Procedure, and non-contested motions. No fee shall be paid to private counsel where the assigned case is reassigned after arraignment by the committee to avoid disproportionate assignment of cases involving felonies or minimum mandatory incarceration, unless the assigned private counsel objects to the reassignment of the case. A copy of the Notice of Assignment of Counsel form accompanied by an invoice describing the court events for which legal services were rendered shall be sufficient proof of such services for purposes of payment; (iii) up to \$200 for motions for which a brief or evidentiary hearing is required under the Massachusetts Rules of Criminal Procedure or ordered by a Justice, payable as follows: \$50 upon the filing of the motion and brief; \$50 upon any evidentiary hearing or argument; and \$100 after hearing if the motion is allowed in whole or in part by the court. A copy of the motion and any brief filed accompanied by an invoice describing whether there was an evidentiary hearing or argument and a copy of the court's endorsement or order shall be sufficient proof of such services for purposes of payment; (iv) \$100 for probation violation hearings, from notice to disposition, based on alleged violation of special conditions of probation or general conditions other than a new crime or, for alleged violation conditions regarding a new crime, where appointed counsel also is appointed in the underlying criminal case. A copy of the Notice of Assignment of Counsel form accompanied by the notice of probation revocation hearing and invoice describing the services rendered shall be sufficient proof of such services for purposes of payment; (v) \$175 for probation violation hearings, from notice to disposition, based on alleged violation of general conditions of a new crime, except where appointed counsel also is appointed in the underlying criminal case. A copy of the Notice of Assignment of Counsel form accompanied by the notice of probation revocation hearing and invoice describing the services rendered shall be sufficient proof of such services for purposes of payment; and (vi) \$60 per hour for time spent on trial commencing with empanelment in a jury case or direct examination of the first witness in a jury-waived case, but excluding waiting time and time spent during jury deliberation. A copy of the docket sheet indicating disposition after trial accompanied by an invoice describing the total hours spent on trial shall be sufficient proof of such services for purposes of payment.

(b) For criminal cases in the superior court department, including youthful offender cases in the juvenile court, excluding cases involving life felonies: (i) a total of \$90 for all the following events in an assigned case: bail reviews and bail only appearances, probation detention hearing, bail revocation hearing, competency or responsibility hearing at arraignment, and limited appearances prior to or at arraignment. A copy of the Notice of Assignment of Counsel form accompanied by an invoice describing the bail only or limited appearance shall be sufficient proof of such services for purposes of payment; (ii) a total of \$500 for pretrial representation, including any arraignment, pretrial conference, pretrial hearing, discovery-related motions, compliance/election events, probable cause hearing, trial assignment date, continuances, motions and affidavits where no brief is required under the Massachusetts Rules of Criminal Procedure, and non-contested motions. No fee shall be paid to private counsel where the assigned case is reassigned after arraignment by the committee for public counsel to avoid disproportionate assignment of cases involving minimum mandatory incarceration, unless the assigned private counsel objects to the reassignment of the

case. A copy of the Notice of Assignment of Counsel form accompanied by an invoice describing the court events for which legal services were rendered shall be sufficient proof of such services for purposes of payment; (iii) up to \$800 for motions for which a brief or evidentiary hearing is required under the Massachusetts Rules of Criminal Procedure or ordered by a Justice, payable as follows: \$200 upon the filing of the motion and brief; \$200 upon any evidentiary hearing or argument; and \$400 after hearing if the motion is allowed in whole or in part by the court. A copy of the motion and any brief filed accompanied by an invoice describing whether there was an evidentiary hearing or argument and a copy of the court's endorsement or order shall be sufficient proof of such services for purposes of payment; (iv) \$300 for probation revocation hearings, from notice to disposition, based on alleged violation of special conditions of probation or general conditions other than a new crime or, for alleged violation conditions regarding a new crime or, for alleged violation conditions regarding a new crime, where appointed counsel also is appointed in the underlying criminal case. A copy of the Notice of Assignment of Counsel form accompanied by the notice of probation revocation hearing and invoice describing the services rendered shall be sufficient proof of such services for purposes of payment; (v) \$500 for probation revocation hearings, from notice to disposition, based on alleged violation of general conditions of a new crime, except where appointed counsel also is appointed in the underlying criminal case. A copy of the Notice of Assignment of Counsel form accompanied by the notice of probation revocation hearing and invoice describing the services rendered shall be sufficient proof of such services for purposes of payment; (vi) \$90 per hour for time spent on trial commencing with empanelment in a jury case or direct examination of the first witness in a jury-waived case, but excluding waiting time or time spent during jury deliberation. A copy of the docket sheet indicating disposition after trial accompanied by an invoice describing the total hours spent on trial shall be sufficient proof of such services for purposes of payment.

(c) For criminal cases in the superior court department, including youthful offender cases in the juvenile court, which involve life felonies: (i) \$60 per hour for pretrial legal services and (ii) \$90 per hour for legal services at trial, up to a total of \$4,000. A majority of the committee must approve payments in excess of \$4,000 up to \$6,500 and every additional \$2,500 thereafter.

(d) For mental health proceedings in all departments of the trial court: (i) a total of \$250 for civil commitment cases; (ii) a total of \$300 for Rogers cases; (iii) a total of \$350 for cases involving both civil commitment and Rogers proceedings; (iv) for cases involving [sections 12 or 35 of chapter 123](#) of the General Laws, as appearing in the 2002 Official Edition, a total of \$100 for cases in all departments of the trial court excluding the superior court department or a total of \$300 for superior court cases. A copy of the Notice of Assignment of Counsel form accompanied by a copy of the docket sheet indicating the final disposition of the case and an invoice describing the services provided shall be sufficient proof of such services for purposes of payment. For all such proceedings, half of the payment shall be payable upon filing a copy of the Notice of Assignment of Counsel with the committee and the remaining half shall be payable after filing a copy of the docket sheet indicating the final disposition accompanied by an invoice describing the services provided.

(e) For sexually dangerous persons cases, \$1,500. A copy of the Notice of Assignment of Counsel form and an invoice submitted to the committee shall be sufficient proof of such services for purposes of payment.

(f) For sex offender registry cases, \$500. A copy of the Notice of Assignment of Counsel form and an invoice submitted to the committee shall be sufficient proof of such services for purposes of payment.

(g) For Care and Protection cases: (i) a total of \$350 for legal services at the emergency hearing and 72-hour hearing. A copy of the Notice of Assignment of Counsel form accompanied by the court's order or endorsement and an invoice describing the services rendered shall be sufficient proof of such services for purposes of payment; (ii) a total of \$350 for all pretrial legal services after the 72-hour hearing is completed, including discovery-related motions, and post-trial motion practice. Submission of any motions and briefs and the pretrial memorandum accompanied by an invoice describing the legal services provided shall be

sufficient proof of such services for payment; (iii) \$100 plus \$45 per hour for time spent during contested motion hearings, excluding waiting time from the hourly payment. Submission of any invoice detailing the legal services provided and the hours spent in actual hearing accompanied by the motion and any brief filed shall be sufficient proof of such services for payment; (iv) \$100 for each permanency hearing; (v) \$60 per hour for time spent in court on trial commencing with direct examination of the first witness, excluding waiting time from the hourly payment. A copy of the docket sheet indicating disposition after trial accompanied by an invoice describing the total hours spent on trial shall be sufficient proof of such services for purposes of payment.

(h) For Child in Need of Services Proceedings, \$175. A copy of the Notice of Assignment of Counsel form and an invoice submitted to the committee shall be sufficient proof of such services for purposes of payment.

(i) For criminal appeals, excluding cases involving life felonies, \$1800 payable as follows: (i) \$600 upon appointment as appellate counsel; (ii) \$600 upon filing of the appellate brief; and (iii) \$600 at the conclusion of oral argument. A copy of the Notice of Assignment of Counsel form with an invoice, a copy of the appellate brief and a copy of the docket sheet indicating the date of oral argument shall be sufficient proof of such services for purposes of payment.

(j) For criminal appeals involving life felonies: (i) \$60 per hour for pre-hearing legal services and (ii) \$90 per hour for legal services at argument, up to a total of \$4,000. A majority of the committee must approve payments in excess of \$4,000 up to \$6,500 and every additional \$2,500 thereafter.

(k) For civil appeals, \$2,100 payable as follows: (i) \$700 upon appointment as appellate counsel; (ii) \$700 upon filing of the appellate brief; and (iii) \$700 at the conclusion of oral argument. A copy of the Notice of Assignment of Counsel form, a copy of the appellate brief and a copy of the docket sheet indicating the date of oral argument with an invoice submitted to the committee shall be sufficient proof of such services for purposes of payment.

(l) For all other legal services rendered not described in subparagraphs (a) through (k) above, \$30 per hour.

The committee shall implement measures to recoup fees disbursed from private counsel who subsequently withdraw from an assignment after receiving payment for services, on a pro rata basis, at the discretion of the committee.

Section 6E. Private counsel may not earn any stated defined compensation more than once in the event of reappointment of the same client after default. The committee shall establish policies and procedures to assure that criminal complaints alleging felonies and crimes imposing minimum mandatory incarceration upon conviction are not disproportionately assigned among private counsel. Nothing in sections 6A through 6E shall reduce the private counsel's obligation to conform to professional standards required by the committee in section 9 or limit the committee from monitoring and evaluating the performance of private counsel pursuant to section 10, except the committee shall not prohibit private counsel from tendering a plea at arraignment where such plea results in a disposition of dismissal with or without costs, pretrial probation to be dismissed at a date certain, civil disposition or filing without a change in plea.

#### *Boston Municipal Court and District Court Department Consolidation*

SECTION 260. Paragraph (f) of [section 3 of chapter 211E](#) of the General Laws, as so appearing, is hereby amended in the final sentence by striking the words "court, district court, and the Boston municipal court" and inserting in place thereof the following:- court and district court.



*Boston Municipal Court and District Court Department Consolidation*

SECTION 261. [Chapter 218](#) of the General Laws, as amended by [section 1 of chapter 45 of the acts of 2003](#), is hereby further amended by striking section 1 and inserting in place thereof the following section:-

Section 1. The district court department, established under [section 1 of chapter 211B](#), shall consist of divisions, one for each of the judicial districts hereinafter enumerated, and whenever the words "district court", "municipal court", or "court" are used in this chapter, or some other clearly contrary intent, such words shall refer to a division of the district court department. Unless the context refers only to a person appointed to the municipal court of the city of Boston or to a juvenile court, the words "justice" and "special justice" shall mean, respectively, an associate justice and a special justice of the trial court appointed to a division of the district court department; and the words "clerk" or "clerk of court" shall mean the clerk of such court; and the words "assistant clerk", "deputy assistant clerk", "temporary clerk" or "temporary assistant clerk" shall mean, respectively, an assistant clerk, deputy assistant clerk, temporary clerk or temporary assistant clerk of such court.

The Boston municipal court shall be a division of the district court department of the trial court. Except where separate or contrary provisions with respect to the same subject matter are made applicable to Boston municipal court in sections 50 to 56, the provisions of this chapter relative to the divisions of the district court department shall apply to the Boston municipal court. Whenever used in this chapter or other general or special law, the words "Boston municipal court department", shall mean the Boston municipal court division of the district court department of the trial court established under [chapter 211B](#). Whenever used in this chapter, the words "chief justice", "chief justice of the Boston municipal court department", or "chief justice of the department", shall mean the chief justice of the district court department, unless the context clearly refers to a chief justice of another department established under [chapter 211B](#), the chief justice for administration and management, or the chief justice of the supreme judicial court.

The judicial districts of the Boston municipal court and of the several other divisions of the district court department shall continue to comprise the following cities, towns, wards and territory in the following counties respectively.

#### Barnstable

The first district court of Barnstable, held at Barnstable; Barnstable, Sandwich and Yarmouth. The second district court of Barnstable, held at Orleans; Provincetown, Truro, Wellfleet, Eastham, Orleans, Brewster, Chatham, Harwich and Dennis. The third district court of Barnstable, held at Falmouth; Mashpee, Falmouth and Bourne. Cases of delinquent children under sections 52 to 84, inclusive, of [chapter 119](#) and petitions brought under [sections 24 and 39E of chapter 119](#) are excepted from the jurisdiction of all of the above courts of this county.

#### Berkshire

The district court of northern Berkshire, held at Adams, North Adams and Williamstown; Adams, North Adams, Williamstown, Clarksburg, Florida, New Ashford, Cheshire, Savoy, Hancock, and Windsor; the district court of central Berkshire exercising concurrent jurisdiction in Windsor and Hancock.

The district court of central Berkshire, held at Pittsfield; Pittsfield, Hancock, Lanesborough, Peru, Hinsdale, Dalton, Washington, Richmond, Lenox, Becket and Windsor; the district court of southern Berkshire exercising concurrent jurisdiction in Lenox and Becket and the district court of northern Berkshire

exercising concurrent jurisdiction in Windsor and Hancock.

The district court of southern Berkshire, held at Great Barrington and Lee; Sheffield, Great Barrington, Egremont, Alford, Mount Washington, Monterey, New Marlborough, Stockbridge, West Stockbridge, Sandisfield, Lee, Tyringham, Otis, Lenox and Becket; the district court of central Berkshire exercising concurrent jurisdiction in Lenox and Becket.

Cases of delinquent children under sections 52 to 84, inclusive, of [chapter 119](#) and petitions brought under [sections 24 and 39E of said chapter 119](#) are excepted from the jurisdiction of all of the above courts of this county.

#### Bristol

The first district court of Bristol, held at Taunton; Taunton, Rehoboth, Berkley, Dighton, Seekonk, Easton and Raynham.

The second district court of Bristol, held at Fall River; Fall River, Somerset, Swansea, Freetown and Westport; the third district court of Bristol exercising concurrent jurisdiction in Freetown and Westport.

The third district court of Bristol, held at New Bedford; New Bedford, Fairhaven, Acushnet, Dartmouth, Freetown and Westport; the second district court of Bristol exercising concurrent jurisdiction in Freetown and Westport.

The fourth district court of Bristol, held at Attleboro; Attleboro, North Attleborough, Mansfield and Norton.

Cases of delinquent children under sections 52 to 84, inclusive, of [chapter 119](#) and petitions brought under [sections 24 and 39E of said chapter 119](#) are excepted from the jurisdiction of all of the above courts of this county.

#### Dukes County

The district court of Dukes County, held at Oak Bluffs, Edgartown and Tisbury; Dukes County. Cases of delinquent children under sections 52 to 84, inclusive, of [chapter 119](#), and petitions brought under [sections 24 and 39E of said chapter 119](#), are excepted from the jurisdiction of the above court of this county.

#### Essex

The first district court of Essex, held at Salem; Salem, Beverly, Danvers, Middleton and Manchester-by-the-Sea.

The second district of Essex, held at Ipswich; Ipswich, Hamilton, Topsfield and Wenham.

The central district court of northern Essex, held at Haverhill; Haverhill, Groveland, Georgetown, Boxford and West Newbury; the district court of Newburyport exercising concurrent jurisdiction in West Newbury.

The district court of eastern Essex, held at Gloucester; Gloucester, Rockport and Essex.

The district court of southern Essex, held at Lynn; Lynn, Swampscott, Saugus, Marblehead and Nahant.

The district court of Lawrence, held at Lawrence and Methuen; Lawrence, Andover, North Andover and Methuen.

The district court of Newburyport, held at Newburyport; Amesbury, Merrimac, Newbury, Newburyport, Rowley, Salisbury and West Newbury; the central district court of northern Essex exercising concurrent jurisdiction in West Newbury.

The district court of Peabody, held at Peabody; Peabody and Lynnfield.

Cases of delinquent children under sections 52 to 84, inclusive, of [chapter 119](#) and petitions brought under [sections 24 and 39E of said chapter 119](#) are excepted from the jurisdiction of all of the above courts of this county.



## Franklin

The district court of Franklin, held at Greenfield, Franklin county, except Orange and Erving; Warwick, Wendell; Leverett, Shutesbury and New Salem. Sessions may also be held at Shelburne Falls in Shelburne and Buckland at such times and places as the justice of said court may determine.

The district court of eastern Franklin, held at Orange; Athol, Orange, Erving, Warwick, Wendell, Leverett, Shutesbury and New Salem. Said court shall be held in Athol at least one day each week of the year.

Cases of delinquent children under sections 52 to 84, inclusive, of [chapter 119](#) and petitions brought under [sections 24 and 39E of said chapter 119](#) are excepted from the jurisdiction of all of the above courts of this county.

## Hampden

The district court of eastern Hampden, held at Palmer; Palmer, Brimfield, Hampden, Monson, Holland, Wales, Wilbraham, Ludlow and East Longmeadow.

The district court of western Hampden, held at Westfield and Chester; Westfield, Chester, Granville, Southwick, Russell, Blandford, Tolland, Montgomery and Agawam.

The district court of Chicopee, held at Chicopee; Chicopee.

The district court of Holyoke, held at Holyoke; Holyoke.

The district court of Springfield, held at Springfield; Springfield, West Springfield and Longmeadow.

Cases of delinquent children under sections 52 to 84, inclusive, of [chapter 119](#) and petitions brought under [sections 24 and 39E of said chapter 119](#) are excepted from the jurisdiction of all of the above courts of this county.

## Hampshire

The district court of Hampshire, held at Northampton, Cummington, Huntington and Easthampton; Hampshire county, except Amherst, Belchertown, Granby, Hadley, South Hadley, Pelham and Ware and any violation of law committed on the land of the metropolitan district commission comprising the Quabbin reservation or used for the supply or protection of the Quabbin reservoir.

The district court of eastern Hampshire, held at Belchertown, Amherst, Granby, Hadley, South Hadley, Pelham, Ware, and any violation of law committed on the land under the care and control of the department of conservation and recreation comprising the Quabbin reservation or used for the supply or protection of the Quabbin reservoir.

Cases of delinquent children under sections 52 to 84, inclusive, of [chapter 119](#) and petitions brought under [sections 24 and 39E of said chapter 119](#) are excepted from the jurisdiction of all of the above courts of this county.

## Middlesex

The district court of central Middlesex, held at Concord; Concord, Acton, Bedford, Carlisle, Lincoln, Maynard, Stow, and Lexington.

The first district court of northern Middlesex, held at Ayer; Ayer, Dunstable, Groton, Pepperell, Townsend, Ashby, Shirley, Westford, Littleton, Boxborough and the Devens Regional Enterprise Zone.

The first district court of eastern Middlesex, held at Malden; Malden, Wakefield, Melrose and Everett.

The second district court of eastern Middlesex, held at Waltham; Waltham, Watertown and Weston.

The third district court of eastern Middlesex, held at Cambridge; Cambridge, Arlington and Belmont.

The fourth district court of eastern Middlesex, held at Woburn; Woburn, Winchester, Burlington, Wilmington, Stoneham, Reading and North Reading.

The first district court of southern Middlesex, held at Framingham; Framingham, Ashland, Holliston,

and Hopkinton.

The district court of Lowell, held at Lowell; Lowell, Billerica, Tewksbury, Dracut, Chelmsford and Tyngsborough.

The district court of Marlborough, held at Marlborough; Marlborough and Hudson.

The district court of Natick, held at Natick; Natick, Sherborn, Wayland, and Sudbury.

The district court of Newton, held at Newton; Newton.

The district court of Somerville, held at Somerville; Somerville and Medford.

Cases of delinquent children under sections 52 to 84, inclusive, of [chapter 119](#) and petitions brought under [sections 24 and 39E of said chapter 119](#) are excepted from the jurisdiction of all of the above courts of this county.

#### Nantucket

The district court of Nantucket, held at Nantucket; Nantucket county. Cases of delinquent children under sections 52 to 84, inclusive, of [chapter 119](#) and petitions brought under [sections 24 and 39E of said chapter 119](#) are excepted from the jurisdiction of the above court of this county.

#### Norfolk

The district court of northern Norfolk, held at Dedham; Dedham, Dover, Norwood, Westwood, Medfield, Wellesley and Needham.

The district court of East Norfolk, held at Quincy; Quincy, Braintree, Cohasset, Weymouth, Holbrook, Randolph and Milton; and, in criminal cases, concurrently with the second district court of Plymouth, that part of Scituate described in chapter 394 of the acts of 1912. Arrests and service of process in such cases may be made by an officer qualified to serve criminal process in Cohasset.

The district court of southern Norfolk, held at Stoughton; Stoughton, Avon, Canton and Sharon.

The district court of Western Norfolk, held at Wrentham; Franklin, Walpole, Foxborough, Medway, Millis, Norfolk, Wrentham and Plainville.

The municipal court of Brookline, held at Brookline; Brookline.

Cases of delinquent children under sections 52 to 84, inclusive, of [chapter 119](#) and petitions brought under [sections 24 and 39E of said chapter 119](#) are excepted from the jurisdiction of all of the above courts of this county.

#### Plymouth

The second district court of Plymouth, held at Hingham; Hingham, Rockland, Hull, Hanover, Scituate and Norwell.

The third district court of Plymouth, held at Plymouth; Plymouth, Kingston, Plympton, Pembroke, Duxbury, Halifax, Hanson and Marshfield.

The fourth district court of Plymouth, held at Wareham; Middleborough, Wareham, Lakeville, Marion, Mattapoisett, Rochester and Carver.

The district court of Brockton, held at Brockton; Brockton, Bridgewater, East Bridgewater, Whitman, Abington and West Bridgewater. Said court may adjourn to the Massachusetts correction institution, Bridgewater, whenever the public convenience seems to the first justice to render such adjournment expedient.

Cases of delinquent children under sections 52 to 84, inclusive, of [chapter 119](#) and petitions brought under [sections 24 and 39E of said chapter 119](#) are excepted from the jurisdiction of all of the above courts of this county.

#### Suffolk

The municipal court of the city of Boston, held at Boston; wards 6, 7, 8, 9, 10, 11, 12, 16, 17 and 18 of

Boston as they existed on February 1, 1882; and in criminal cases, concurrently with the municipal courts of the Roxbury and Brighton districts, the second and third district courts of eastern Middlesex and the district court of Newton, respectively, so much of the Charles river basin, as defined in section 2 of chapter 524 of the acts of 1909, as affected by chapter 245 of the acts of 1916 as is within the districts of said courts.

The municipal court of the Brighton district, held at Brighton in Boston; ward 25 of Boston as it existed on February 1, 1882.

The municipal court of the Charlestown district, held at Charlestown in Boston: wards 3, 4 and 5 of Boston as they existed on February 1, 1882; provided, however, that in criminal matters, said court shall have exclusive jurisdiction in that part of said wards which is in so much of the Charles river basin, as defined in section 2 of chapter 524 of the acts of 1909, as affected by chapter 245 of the acts of 1916 under the care and control of the department of conservation and recreation as is within the districts of said court.

The district court of Chelsea, held at Chelsea; Chelsea, and Revere.

The municipal court of the Dorchester district, held at Dorchester in Boston; ward 24 of Boston as it existed on February 1, 1882, and the territory comprised within the limits of precinct 12 of ward 13 of Boston as it existed on November 2, 1948.

The East Boston district court, held at East Boston in Boston; Winthrop and wards 1 and 2 of Boston as they existed on March 1, 1886; provided, however, that said court shall have territorial jurisdiction in matters that arise in the Sumner tunnel and Lieutenant William F. Callahan, Jr. tunnel, including any property, toll plazas and approach roads thereto under the ownership, care, custody and control of the Massachusetts Turnpike Authority as provided in chapter 598 of the acts of 1958.

The municipal court of the Roxbury district, held at Roxbury in Boston; wards 19, 20, 21 and 22 of Boston as they existed on February 1, 1882, excepting ward 10, save as hereinafter provided, as it existed on February 1, 1976; provided, however, that, notwithstanding any other law, said court shall have jurisdiction over matters arising in precincts 1, 6 and 7 of ward 10.

The municipal court of the South Boston district, held at South Boston in Boston; wards 13, 14 and 15 of Boston as they existed on February 1, 1882.

The municipal court of the West Roxbury district, held at West Roxbury in Boston; ward 23 of Boston as it existed on February 1, 1882, the territory comprised within the limits of the former town of Hyde Park which was annexed to Boston by chapters 469 and 583 of the acts of 1911, and ward 10, except precincts 1, 6 and 7 of said ward 10, as existing on February 1, 1976.

Cases of delinquent children under sections 52 to 84, inclusive, of [chapter 119](#) and petitions brought under [sections 24 and 39E of said chapter 119](#) are excepted from the jurisdiction of all of the above courts of this county. The juvenile court located in the city of Boston, heretofore known as the Boston juvenile court, shall have the territorial jurisdiction provided in section 57 and, with respect to children in Suffolk county, shall have exclusive jurisdiction of petitions brought under said [sections 24 and 39E of said chapter 119](#).

## Worcester

The central district court of Worcester, held at Worcester; Worcester, Auburn and Millbury.

The first district court of northern Worcester, held at Gardner; Gardner, Petersham, Hubbardston and Westminster.

The first district court of eastern Worcester, held at Westborough and Grafton; Westborough, Grafton, Southborough, Northborough and Shrewsbury.

The second district court of eastern Worcester, held at Clinton; Clinton, Berlin, Bolton, Boylston, Harvard, Lancaster, Sterling and West Boylston.

The first district court of southern Worcester, held at Southbridge and Webster; Southbridge, Webster, Sturbridge, Charlton, Dudley and Oxford.

The second district court of southern Worcester, held at Uxbridge; Uxbridge, Blackstone, Douglas, Northbridge, Millville and Sutton.

The third district court of Southern Worcester, held at Milford; Milford, Mendon, Upton, Bellingham and Hopedale.

The district court of western Worcester, held at North Brookfield; East Brookfield, Brookfield, Spencer, North Brookfield, West Brookfield, Warren, Hardwick, Leicester, New Braintree, Barre, Oakham, Paxton and Rutland. Said court may adjourn to any town within its district other than North Brookfield whenever the public convenience seems to the presiding justice to render such adjournment expedient.

The district court of Fitchburg, held at Fitchburg; Fitchburg and Lunenburg.

The district court of Leominster, held at Leominster; Leominster, Holden and Princeton.

The district court at Winchendon, held at Winchendon; Winchendon, Ashburham, Phillipston, Royalston and Templeton.

Cases of delinquent children under sections 52 to 84, inclusive, of [chapter 119](#) and petitions brought under [sections 24 and 39E of said chapter 119](#) are excepted from the jurisdiction of all of the above courts of this county.

Each division of the district court department may be referred to by the name of the principal place for the holding of that court.

#### *Boston Municipal Court and District Court Department Consolidation*

SECTION 262. [Section 43 of said chapter 218](#), as appearing in the 2002 Official Edition, is hereby amended by striking the last sentence.

#### *Boston Municipal Court and District Court Department Consolidation*

SECTION 263. Said [chapter 218](#), as amended by [section 478 of chapter 26 of the acts of 2003](#), is hereby further amended by striking section 50 and inserting in place thereof the following section:-

Section 50. The Boston municipal court division of the district court department shall consist of 11 associate justices of the trial court appointed to said division.

The chief justice of the district court department, subject to the approval of the supreme judicial court and the chief justice for administration and management, may make, from time to time, rules for regulating the practice and conducting the business therein in all cases not expressly provided for by law.

The chief justice of the district court department shall have the power to appoint the first justice of the Boston municipal court in accordance with section 6.

#### *Boston Municipal Court and District Court Department Consolidation*

SECTION 264. [Section 51A of said chapter 218](#), as amended by [section 479 of chapter 26 of the acts of 2003](#), is hereby repealed.

*Boston Municipal Court and District Court Department Consolidation*

SECTION 265. Said [chapter 218](#), as appearing in the 2002 Official Edition, is hereby amended by striking section 52 and inserting in place thereof the following section:-

Section 52. In addition to the powers conferred in [section 10 of chapter 211B](#), the chief justice of the district court department may from time to time make assignments for the attendance of a justice at the several times and places appointed for holding court. Said chief justice, or, in case of his death, illness or incapacity, the first justice of the Boston municipal court, if in his opinion the public business so requires, may provide for additional sessions in the division, and for the appointment of special justices to hold such additional sessions.

*Boston Municipal Court and District Court Administrative Consolidation*

SECTION 266. [Chapter 218](#) of the General Laws, as amended by [section 488 of chapter 26 of the acts of 2003](#), is hereby further amended by striking section 70 and inserting in place thereof the following section:-

Section 70. Notwithstanding the provisions of any special or general law to the contrary, there shall be one administrative office which shall provide administrative support to both the district court department and the Boston municipal court located within the city of Boston. Such administrative office may employ no more than one tape librarian and two legal counsels, and such other personnel as deemed necessary or appropriate by the chief justice of the district court department.

*Boston Municipal Court and District Court Administrative Consolidation*

SECTION 267. [Section 80A of said chapter 218](#), as amended by [section 490 of chapter 26 of the acts of 2003](#), is hereby repealed.

*Alcoholic Beverage Control Commission Transfer to Public Safety*

SECTION 268. [Section 8 of chapter 233](#) of the General Laws, as amended by [section 493 of chapter 26 of the acts of 2003](#), is hereby further amended by striking out the words "section forty-three of chapter six" and inserting in place thereof the following:- chapter 22F.

*Massachusetts Turnpike Merger*

SECTION 269. [Section 1 of chapter 258](#) of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by inserting after the words "public employee", in line 49, the following:- and including the Massachusetts Turnpike Authority.

*Massachusetts Turnpike Merger*

SECTION 270. Said [section 1 of said chapter 258](#), as so appearing, is hereby further amended by striking the words "the Massachusetts Turnpike Authority, or any other independent body politic and corporate," in lines 51-53 and replacing them with the following:- or any other independent body politic and corporate except as set forth herein.

*Crime Victim Compensation*

SECTION 271. Paragraph (f) of [section 2 of chapter 258C](#) of the General Laws, as so appearing, is hereby amended by inserting at the end thereof the following new sentences:- If a claimant is 60 years of age or older at the time of the crime and is not employed or receiving unemployment compensation, such claimant shall be eligible for compensation in accordance with [chapter 258C](#) even if the claimant has suffered no out-of-pocket loss. The compensation to such claimant shall be limited to a maximum of \$50. Notwithstanding the provisions of any general or special law to the contrary, victims of the crime of rape shall be notified of all available services designed to assist rape victims, including, but not limited to, the provisions outlined in section 5 of chapter 258B.

*Litigation Anniversary Fee*

SECTION 272. [Section 23 of chapter 261](#) of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by striking the second paragraph and inserting in place thereof the following paragraph:-

For the entry fee and any subsequent fees paid pursuant to [section 4D of chapter 262](#), among all plaintiffs for who entry such fees have not been waived, which amount shall equal the aggregate of the entry fees and any subsequent fees paid pursuant to said section 4D paid by said plaintiffs.

*Litigation Anniversary Fee*

SECTION 273. [Section 26 of said chapter 261](#), as so appearing, is hereby amended by striking lines 5 through 7, inclusive, and inserting in place thereof the following:-

For the complaint, an amount to be apportioned among all plaintiffs for whom entry fees and fees pursuant



to [section 4D of chapter 262](#) have not been waived, which amount shall be equal to the aggregate of all fees paid pursuant to said section 4D.

### *Transitional Supplemental Security Income Reform*

SECTION 274. [Section 27A of said chapter 261](#), as so appearing, is hereby amended by striking out, in lines 4 and 5, the words "emergency aid for elderly and disabled residents" and inserting in place thereof the following:- transitional supplemental security income.

### *Litigation Anniversary Fee*

SECTION 275. [Section 4D of chapter 262](#) of the General Laws, as amended by [section 502 of chapter 26 of the acts of 2003](#), is hereby further amended by inserting at the end thereof the following paragraph:-

The anniversary fee shall not be assessed against the following plaintiffs: (1) plaintiffs who are actively serving in the military or who are represented by an attorney who is actively serving in the military; (2) the commonwealth or any political subdivision thereof; (3) plaintiffs who have filed litigation against one or more presumed bankrupt defendants evidenced by the defendant's filing a suggestion of bankruptcy; provided however, such defendant shall not be deemed bankrupt for the purposes of this section if the automatic stay under the federal bankruptcy code has been lifted; (4) plaintiffs filing claims under [chapter 209A](#); (5) plaintiffs filing claims pursuant to [section 21 of chapter 218](#); (6) plaintiffs filing claims pursuant to [section 14 of chapter 224](#), unless such claim has reached a final disposition while other counts remain in active litigation; (7) plaintiffs filing claims pursuant to [section 2 of chapter 239](#); and (8) plaintiffs for whom other filing fees have been waived by the court due to indigency. For purposes of assessing the litigation anniversary fee, the filing date for all cases pending on or prior to October 1, 2003 shall be deemed to be October 1, 2003.

### *Credit Card Payments for Court Fees*

SECTION 276. Said [chapter 262](#), as appearing in the 2002 Official Edition, is hereby amended by inserting at the end thereof the following sections:-

Section 65. For all fees, fines, costs, assessments and other monies collected by any department of the trial court and payable to the commonwealth under this chapter, the trial court may accept payment by credit card.

Section 66. If a payment by credit card is not honored by the credit card company on which the funds are drawn, the court may collect a service charge from the person who owes the fine, fee, assessment, court cost or other surcharge. The service charge is an addition to the original fine, fee, assessment, court cost or other surcharge and is for the collection of that original amount. The underlying obligation survives and the state retains all remedies for enforcement which would have applied if the credit card transaction had not

occurred.

#### *Confidentiality of State Employee Home Addresses*

SECTION 277. [Section 3 of chapter 268B](#) of the General Laws, as so appearing, is hereby amended by striking out subsection (d) and inserting in place thereof the following subsection:-

(d) make statements and reports filed with the commission available for public inspection and copying during regular office hours upon the written request of any individual who provides identification acceptable to the commission, including his affiliation, if any, at a charge not to exceed the actual administrative and material costs required in reproducing said statements and reports; provided, however, that the commission shall exempt from public disclosure those portions of a statement of financial interest filed pursuant to section 5 which contain the home address and telephone number of the filer; provided, however, that the commission shall not exempt from public disclosure the home address and telephone numbers of elected officials; and provided, further, that the commission shall forward a copy of said request to the person whose statement has been examined;.

#### *Application of Bail Money for Court Fees*

SECTION 278. [Section 81 of chapter 276](#) of the General Laws, as so appearing, is hereby amended by striking out the fourth sentence and inserting in place thereof the following sentence:- If the defendant owes the commonwealth a debt arising out of fines, assessments, costs or fees, then the court shall deduct and apply such portion of the bail money deposited to resolve the defendant's outstanding debt and return the remainder of the bail money to the person in whose name the deposit is made or to his order, unless the surety expressly states on the recognizance form that such deductions are prohibited. The foregoing provisions shall not apply to cases in which forfeiture has been ordered

#### *Civil Infraction Modification*

SECTION 279. [Section 70C of chapter 277](#) of the General Laws, as amended by [section 511 of chapter 26 of the acts of 2003](#), is hereby further amended in the second sentence of the first paragraph by striking the words "22F, 23, 24, 24D, 24G, 24L, and 24N of [chapter 90](#)" and inserting in place thereof the following:- 22F, 24, 24D, 24G, 24L, and 24N of chapter 90.

#### *Attorney Fee Assessment Exemptions*

SECTION 280. [Section 28E of chapter 278](#) of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by inserting at the end thereof the following paragraph:-



No costs or attorney's fees shall be assessed against the office of the attorney general or a district attorney's office in connection with an interlocutory appeal or application therefor of an order allowing a motion to suppress or dismiss taken by the commonwealth pursuant to [section 28E of chapter 278](#) of the General Laws or the rules of criminal procedure unless the defendant prevails and a single justice determines that the appeal was frivolous. Defendants represented by either the public or private counsel division of the committee for public counsel services shall not be entitled to costs or attorney's fees pursuant to this section.

#### *Municipal Borrowing Technical Changes*

SECTION 281. Section 1 of chapter 74 of the acts of 1945, is hereby amended by striking the first and second paragraphs and inserting in place thereof the following paragraph:-

For purposes of this act, the term "board" shall mean a board composed of the attorney general, the state treasurer, the state auditor and the director of accounts, or their designees.

#### *TAFDC Work Requirement Reform*

SECTION 282. Subsection (j) of section 110 of chapter 5 of the acts of 1995, as most recently amended by [section 528 of chapter 26 of the acts of 2003](#), is hereby further amended by striking the first two sentences of the first paragraph and inserting in place thereof the following two sentences:- The department shall administer a program, to be known as the work program, for families that are not exempt under subsection (e). Under the work program, the head of household in each family, or each parent in a two-parent family, shall work 34 hours, except that the work requirement shall be 24 hours when the youngest child of record is under the age at which full-time school attendance is mandatory in the city or town where the child resides.

#### *TAFDC Work Requirement Reform*

SECTION 283. Subsection (j) of section 110 of chapter 5 of the acts of 1995, as most recently amended by [section 528 of chapter 26 of the acts of 2003](#), is hereby further amended by striking out the word "twenty" wherever it appears in the third and fourth sentences of the second paragraph, and inserting in place thereof the following words:- the required.

#### *Natural Resource Damages Trust*

SECTION 284. [Section 177 of chapter 43 of the acts of 1997](#) is hereby repealed.

*Charter School Expenditure Cap Removal*

SECTION 285. [Section 6 of chapter 46 of the acts of 1997](#) is hereby repealed.

*Natural Resource Damages Trust*

SECTION 286. [Chapter 194 of the acts of 1998](#) is hereby amended by striking out section 317 and inserting in place thereof the following section:-

Section 317. There shall be established and set up on the books of the commonwealth a separate trust to be known as the Natural Resource Damage Trust to be administered and expended by the executive office of environmental affairs. Expenditures may be made from the trust account, without further appropriation, for the purposes of funding natural resource restoration, replacement or acquisition of equivalent natural resources, natural resource damages claims, including, but not limited to, investigation of such claims, and enforcement of settlements. Expenditures may also be made from the trust account, without further appropriation, for the purposes of funding other actions related to natural resources damage, including but not limited to, natural resource damage assessment, natural resource damage recovery, natural resource law enforcement, and if necessary, the costs of personnel and administration of studies or related activities, including grants to public and non-public entities, conducted pursuant to the secretary's authority as trustee for natural resources pursuant to [section 5 of chapter 21E](#) of the General Laws, sections 23 to 27, inclusive, of [chapter 130](#) of the General Laws, [section 42 of chapter 131](#) of the General Laws, section 9607(f) of Title 42 of the United States Code, section 1321 of Title 33 of the United States Code, section 2706 of Title 33 of the United States Code or any other relevant and appropriate authority. Said trust shall retain all interest earned on sums deposited in the trust. The trust may receive funds as may be appropriated from time to time, as well as gifts and grants of money or other contributions from any source, either public or private, and settlements, judgments, or fines or penalties not designated by law for other specific purposes, to be expended within the purposes of the trust. The fund may not receive any fees that have been collected by any agency within the executive office of environmental affairs.

*Debt Defeasement Fund Repeal*

SECTION 287. [Section 6 of chapter 55 of the acts of 1999](#) is hereby repealed. As of the effective date of this act, the comptroller shall transfer any remaining balance in the fund named therein to the General Fund.

*Health and Human Services IT Projects*

SECTION 288. Item 1790-2010 of [section 2 of chapter 142 of the acts of 2002](#), is hereby amended by inserting at the end thereof the following:- ; and provided further, that any federal reimbursement received

for expenditures paid from this item may be retained and expended for the purpose of this item in addition to the amounts appropriated herein.

*Health and Human Services IT Projects*

SECTION 289. Item 1790-2011 of said [section 2 of chapter 142 of the acts of 2002](#), is hereby amended by inserting at the end thereof the following:- ; and provided further, that any federal reimbursement received for expenditures paid from this item may be retained and expended for the purpose of this item in addition to the amounts appropriated herein.

*Health and Human Services IT Projects*

SECTION 290. Said item 1790-2011 of said [section 2 of chapter 142 of the acts of 2002](#), is hereby further amended by striking the following:- provided further, that prior to the expenditure of any additional funds unrelated to the annual maintenance and operation of the BEACON project and the FamilyNet system, the chief information officer of the division of information technology, in consultation with the department of transitional assistance and the department of social services, shall file with the secretary of administration and finance and the house and senate committees on ways and means: (i) an accounting of the total costs associated with such projects; (ii) an accounting of the cost savings since implementation and an assessment of whether the current infrastructure has accomplished the intended goals of interfacing with state government agencies, strengthening revenue maximization efforts, improving data integrity and increasing worker productivity; and (iii) a detailed timeline and estimate of all future costs related to the operation and integration of such systems; and provided further, that the chief information officer of the division of information technology, in consultation with the department of transitional assistance and the department of social services, shall file with the secretary of administration and finance and the house and senate committees on ways and means, a detailed user survey and a report detailing the proposed integration of the BEACON project and the FamilyNet system.

*Reunification of Labor and Workforce Development*

SECTION 291. Sections 560, 561, 562, 573, 574, 575, 576, 577, 578, 580 and 591 of [chapter 26 of the acts of 2003](#) are hereby repealed.

*Hynes Convention Center Restrictions Elimination*

SECTION 292. [Section 593 of chapter 26 of the acts of 2003](#) is hereby amended by striking subsection (c) and inserting in place thereof the following:-

(c) The properties shall be available for retention or disposition pursuant to the relevant laws and regulations applicable to the ownership of real estate by the PRIT fund, subject to the restriction that the PRIM board shall ensure that the parking garage shall continue to operate as a parking garage whether retained, leased or otherwise disposed of by the board.

*Fringe Benefit Exemption for Retained Tuition*

SECTION 293. [Section 633 of chapter 26 of the acts of 2003](#) is hereby amended by striking the last sentence of the third paragraph.

*Intergovernmental Transfer - Managed Care Contracts Effective Dates*

SECTION 294. [Section 132 of chapter 140 of the acts of 2003](#) is hereby amended by striking out the words "hospital fiscal year" wherever they appear and inserting in place thereof the following:- fiscal year.

*Intergovernmental Transfer - Managed Care Contracts Effective Dates*

SECTION 295. [Section 132 of chapter 140 of the acts of 2003](#) is hereby amended by striking out the words "an amount not less than 55 per cent of the gross amounts of supplemental payments made by the division of medical assistance under managed care contracts" and inserting in place thereof the following:- an amount not less than 55 per cent of the gross amounts of supplemental payments made by the division of medical assistance on or after July 1, 2003 under managed care contracts.

*Essential Community Provider Trust Fund - Effective Dates*

SECTION 296. [Section 133 of chapter 140 of the acts of 2003](#) is hereby amended by inserting after the first sentence, the following new sentences:- This trust shall be established effective July 1, 2003 and shall terminate June 30, 2004. Upon the termination of said trust the comptroller shall transfer any remaining balance to the Uncompensated Care Trust Fund.

*Civil Legal Aid Consolidation*

SECTION 297. Notwithstanding the provisions of any special or general law to the contrary, the Massachusetts legal advisors corporation may distribute funds to the mental health legal advisors, correctional legal services, and any other organization that provides legal services to indigent persons.

*Indigent Counsel Fee Retained Revenue*

SECTION 298. Notwithstanding the provisions of any general or special law to the contrary, all revenue collected from indigent or marginally indigent clients of the committee for public counsel services, pursuant to [section 2A of chapter 211D](#) of the General Laws, for services rendered through the committee in excess of the total revenue collected from such fees in fiscal year 2004 shall be retained as follows: 50 per cent of such excess fees collected up to \$5,000,000 shall be retained by the committee in item [0321-1518](#) of section 2 of this act, and 50 per cent of such excess fees collected up to \$5,000,000 shall be retained by the office of the commissioner of probation in item [0339-1008](#) of section 2 of this act. Any fees collected in excess of \$10,000,000 above the total fees collected in fiscal year 2004 shall be distributed as follows: 50 per cent of such revenue shall be deposited in the General Fund and the remaining 50 per cent of such revenue up to \$9,000,000 shall be retained by the committee in item [0321-1516](#) of section 2 of this act to be distributed on June 30, 2005 to staff counsel and bar advocates as additional compensation for services rendered in amounts determined appropriate by the committee; provided, that no staff counsel or bar advocate may receive such additional compensation in excess of 25 per cent of his earnings from the committee in fiscal year 2005.

*Credit Card Retained Revenue*

SECTION 299. Notwithstanding the provisions of any general or special law to the contrary, for item [0330-3336](#) of section 2 of this act, the trial court shall retain 50 per cent of all fees charged and collected by the judiciary in excess of the ceiling imposed on item [0330-3333](#) of section 2 of this act and 50 per cent of such excess fees shall be deposited in the General Fund. Such excess revenue up to \$5,000,000 shall be used to defray the costs associated with the implementation of a credit card system for the collection of fees by the judiciary, and for such other purposes deemed appropriate by the chief justice for administration and management.

*Pension Cost of Living Adjustment*

SECTION 300. Notwithstanding the provisions of any general or special law to the contrary, the amounts transferred to the commonwealth's Pension Liability Fund, pursuant to [section 22C of chapter 32](#) of the General Laws shall be made available to meet the commonwealth's obligations pursuant to said section 22C, including retirement benefits payable by the state employees' and the state teachers' retirement systems, the costs associated with a 3 per cent cost-of-living adjustment pursuant to the provisions of [section 102 of said chapter 32](#), the reimbursement of local retirement systems for previously authorized cost-of-living adjustments pursuant to said section 102, and for the costs of increased survivor benefits pursuant to chapter 389 of the acts of 1984. Subject to rules and regulations promulgated by the treasurer, the state retirement board and each city, town, county, or district shall verify the cost of said obligations and the

treasurer may make payments therefor upon a transfer of funds as hereinafter provided, to reimburse certain cities and towns for pensions to retired teachers, and including any other obligations which the commonwealth has assumed on behalf of any retirement system other than the state employees' or state teachers' retirement systems, and including the commonwealth's share of the amounts to be appropriated pursuant to [section 22B of said chapter 32](#) and the amounts to be appropriated pursuant to clause (a) of the last paragraph of [section 21 of chapter 138](#) of the General Laws. All payments for the purposes herein described shall be made only pursuant to distribution of monies from said fund; provided, that such distributions shall not be made in advance of the date on which any payment is actually to be made. Any request for distribution from said fund shall not be in excess of the amount necessary to provide sufficient monies to make all payments for the purposes herein before described. The state retirement board is authorized to expend an amount for the purposes of the board of higher education's optional retirement program pursuant to [section 40 of chapter 15A](#) of the General Laws.

#### *Automobile Insurance and Workers Compensation Fraud Unit Assessment*

SECTION 301. In order to offset the appropriations in items [0810-0338](#) and [0810-0399](#) of section 2 of this act, the costs of said items shall be assessed pursuant to section 3 of chapter 399 of the acts of 1991. Said assessments shall be credited to the General Fund. Notwithstanding the provisions of said section 3, the amount so assessed shall be the amounts appropriated in said items, plus an amount sufficient to recover indirect and fringe benefit costs attributable to said items.

#### *Fuel Charge Judicial Proceedings Assessment*

SECTION 302. The director of consumer affairs and business regulation shall assess an amount equal to the amount appropriated in item [0810-0017](#) of section 2 of this act, including fringe benefits and indirect costs, to the electric industry pursuant to [section 3 of chapter 24A](#) of the General Laws.

#### *Medicaid Fraud Control Unit Assessment*

SECTION 303. The amount appropriated in item [0810-0021](#) of section 2 of this act may be spent only to the extent that the federal reimbursement for any expenditure from said item is not less than 75 per cent of such expenditure.

#### *Merit Rating System Assessment*

SECTION 304. In order to offset the appropriation in item [0810-0201](#) of section 2 of this act, the costs of said item shall be assessed pursuant to [section 11F of chapter 12](#) of the General Laws. Said assessments

shall be credited to the General Fund.

*Public Utilities Proceedings Assessment*

SECTION 305. In order to offset the appropriation in item [0810-0014](#) of section 2 of this act, the costs of said item shall be assessed pursuant to [section 11E of chapter 12](#) of the General Laws. Said assessments shall be credited to the General Fund.

*Inspector General Transfer to Comptroller*

SECTION 306. The office of inspector general is hereby abolished. Unless a contrary intent clearly appears, all powers and duties exercised by said office immediately prior to the effective date of this act are hereby transferred to the office of the state comptroller.

*Inspector General Transfer to Comptroller*

SECTION 307. All books, papers, records, documents, equipment, lands, interests in land, buildings, facilities and other property, both personal and real, which immediately prior to the effective date of this act are in the custody of the inspector general, and which relate to or are maintained for the purpose of the exercise of such powers or the performance of such duties, are hereby transferred to the comptroller; provided, that all such property held in trust shall continue to be held in trust, and be administered in accordance with the terms of such trust, by the trustees appointed by any court of competent jurisdiction upon application of any interested persons for such appointment or for instructions in connection therewith. All questions regarding the identification of such property shall be determined by the secretary of administration and finance.

*Inspector General Transfer to Comptroller*

SECTION 308. All monies heretofore appropriated for the inspector general for the purpose of the exercise of such powers or the performance of such duties, and remaining unexpended on the effective date of this act, are hereby transferred to, and shall be available for expenditure by the comptroller. All questions regarding the identification of such monies shall be determined by the secretary of administration and finance.

*Inspector General Transfer to Comptroller*

SECTION 309. All duly existing contracts, leases and obligations of the inspector general that relate to the exercise of such powers for the performance of such duties, and which are in force immediately prior to the effective date of this act, shall thereafter be performed by the comptroller. This section shall not affect any renewal provisions or option to renew contained in any such leases in existence on said effective date, all of which may thereafter be exercised by the comptroller. All questions regarding the identification of such contracts, leases and obligations of the inspector general shall be determined by the secretary of administration and finance.

*Inspector General Transfer to Comptroller*

SECTION 310. All petitions, hearings and other proceedings duly brought before, and all prosecutions and legal and other proceedings begun by the inspector general that arise from or relate to the exercise of such powers or the performance of such duties, and which are pending immediately prior to the effective date of this act, shall thereafter be completed by the comptroller.

All orders, rules and regulations duly made, and all licenses, permits, certificates and approvals duly granted by the inspector general that arise from or relate to the exercise of such powers or the performance of such duties, and which are in force immediately prior to said effective date, shall continue in force, and the provisions thereof shall thereafter be enforced, until superceded, revised, rescinded or cancelled in accordance with law, by the comptroller. All questions regarding the identification of such petitions, hearings, prosecutions, proceedings, orders, rules, regulations, licenses, permits, certificates and approvals, and of the agencies to which the completion or enforcement thereof is transferred shall be determined by the secretary of administration and finance.

*Inspector General Transfer to Comptroller*

SECTION 311. Wherever the name "inspector general", or "the office of the inspector general" or "the inspector general's office", or the name of any department, agency, office, commission, committee, council, board, division, bureau, institution, other administrative unit or officer within the office of the inspector general, from which powers and duties are transferred by the provisions of this act, appear in any statute, special act or resolve, order, rule, regulation or other document related to the exercise of such powers or the performance of such duties, such name shall be construed as referring to the office of the state comptroller, unless a contrary intent clearly appears.

*Federal Medicaid Assistance Percentage Escrow Fund*

SECTION 312. Notwithstanding the provisions of any general or special law to the contrary, the state comptroller shall transfer \$139,000,000 from the Federal Medicaid Assistance Percentage Escrow Fund to the General Fund.



*Federal Medicaid Assistance Percentage Escrow Fund*

SECTION 313. Notwithstanding the provisions of any general or special law to the contrary, an amount equal to \$139,000,000 from the Federal Medicaid Assistance Percentage Escrow Fund, established by [section 14A of chapter 101 of the acts of 2003](#), and amended by [section 1 of chapter 118 of the acts of 2003](#), shall be designated for expenditure in fiscal year 2005, and shall not contribute to the calculation of the fiscal year 2004 consolidated net surplus, as calculated by the state comptroller as of June 30, 2004, pursuant to [section 5C of chapter 29](#) of the General Laws.

*Highway Fund Split*

SECTION 314. Notwithstanding the provisions of any general or special law to the contrary, appropriations for the following items in section 2 of this act shall be funded 100 per cent from the Highway Fund: [0699-2004](#), [1599-0050](#), [1599-1970](#), [6000-0100](#), [6005-0015](#), [6030-7201](#), [7006-0080](#), [8100-0000](#), [8100-0007](#), [8100-0011](#), [8400-0001](#), [8400-0100](#); and provided further, that item [0699-0015](#) shall be funded 44.90 per cent from the Highway Fund and 55.10 per cent from the General Fund.

*Inland Fish and Game Fund Split*

SECTION 315. Notwithstanding the provisions of any general or special law to the contrary, appropriations for the following items in section 2 of this act shall be funded 100 per cent from the Inland Fish and Game Fund: [2310-0200](#), [2310-0316](#), [2310-0317](#) and [2350-0101](#).

*Workforce Training Fund Splits*

SECTION 316. Notwithstanding the provisions of any general or special law to the contrary, appropriations for the following items in section 2 of this act shall be funded 100 per cent from the Workforce Training Fund: [7003-0701](#) and [7003-0702](#).

*Tourism Fund Split*

SECTION 317. Notwithstanding the provisions of any general or special law to the contrary, appropriations for the following items in section 2 of this act shall be funded 100 per cent from the Tourism Fund: [7007-0900](#), [7007-1000](#) and [7007-1300](#).

*State School Facilities Grant Debt Service Fund Split*

SECTION 318. Notwithstanding the provisions of any general or special law to the contrary, item [1599-2112](#) of section 2 of this act shall be funded 100 per cent from the State School Facilities Grant Debt Service Fund, established pursuant to [section 2PPP of chapter 29](#) of the General Laws.

*Fringe and Indirect Exemptions*

SECTION 319. Notwithstanding the provisions of any general or special law to the contrary, the federal vocational rehabilitation grants expended by the Massachusetts commission for the blind and the Massachusetts rehabilitation commission appearing in section 2 of this act shall be exempt from fringe and indirect cost charges pursuant to [section 6B of chapter 29](#) of the General Laws; and provided further, that the federal grant expended from item 1100-1703, appearing in section 2 of this act, shall be exempt from the first \$230,000 of said fringe and indirect costs.

*Non-Public Entity Grant Authorization*

SECTION 320. The amounts appropriated in items [0640-0300](#), [0640-0350](#), [1410-0010](#), [2010-0100](#), [2300-0101](#), [2810-0100](#), [2810-2040](#), [4405-2000](#), [4510-0790](#), [7000-9401](#), [7004-3036](#), [7004-9005](#), [7027-0016](#), [7027-0019](#), [7030-1000](#), [7030-1004](#), [7030-1005](#), [7030-1500](#), [7035-0002](#), [7053-1925](#), [7061-9404](#), [7061-9634](#), [9110-1455](#) and [9110-9002](#) of section 2 of this act may include grants to or contracts with public and non-public entities, in accordance with 815 CMR 2.00.

*Prior-Year Expenditure Authorizations*

SECTION 321. Notwithstanding the provisions of any general or special law to the contrary, the funds provided in items [1108-5200](#), [1599-3384](#), [4000-0430](#), [4000-0500](#), [4000-0600](#), [4000-0620](#), [4000-0700](#), [4000-0860](#), [4000-0870](#), [4000-0875](#), [4000-0880](#), [4000-0890](#), [4000-0891](#), [4000-1400](#), [4513-1010](#), [7061-0012](#) and [7077-0023](#) in section 2 of this act may be expended for services rendered in prior fiscal years; provided further, that not more than \$1,500,000 shall be expended from [0321-1500](#) for services rendered in prior fiscal years; provided further, that funds provided in [4110-1010](#) in section 2 of this act may be expended for burial expenses incurred in prior fiscal years; provided further, that not more than \$60,000 shall be expended from [4200-0300](#) for reimbursements to providers for services rendered in prior fiscal years; and provided further, that funds provided in [4405-2000](#) and [4408-1000](#) in section 2 of this act may be expended for burial expenses and rest home vendor payments incurred in prior fiscal years.

### *Retained Revenue Advance Spending Authority*

SECTION 322. Notwithstanding the provisions of any general or special law to the contrary, for purposes of accommodating timing discrepancies between the receipt of retained revenues and related expenditures, departments may incur expenses and the comptroller may certify for payment amounts not to exceed the lesser of the appropriated amount or the most recent revenue estimate therefor as reported in the state accounting system for the following items appearing in section 2 of this act: [0330-3333](#), [0910-0210](#), [1102-3205](#), [1102-3214](#), [1102-3231](#), [1150-5104](#), [1201-0130](#), [1310-1001](#), [1750-0102](#), [1775-0600](#), [1775-0900](#), [1775-1100](#), [1790-0300](#), [2200-0102](#), [2810-2040](#), [2820-4420](#), [2820-4421](#), [4000-0320](#), [4110-0003](#), [4120-5050](#), [4125-0101](#), [4180-1100](#), [4190-0102](#), [4190-1100](#), [4510-0099](#), [4510-0615](#), [4510-0616](#), [4510-0712](#), [4513-1012](#), [4516-0263](#), [4516-1022](#), [4518-0200](#), [4590-0912](#), [4590-0913](#), [4800-0091](#), [5047-0002](#), [5982-1000](#), [7004-9315](#), [8000-0122](#), [8100-0006](#), [8100-0011](#), [8200-0222](#), [8315-1020](#), [8315-1025](#), [8400-0033](#), [8900-0045](#), [8910-0160](#), [8910-1111](#), [8910-2222](#), and [8910-6619](#) .

### *Establishing Retained Revenue Floor Amounts*

SECTION 323. Notwithstanding the provisions of any general or special law to the contrary, for the retained revenue accounts listed below, the departments shall not expend receipts until the minimal amount listed has been reached. The affected accounts and amounts are as follows: [0330-3333](#), actual fiscal year 2003 revenue receipts; [1775-0124](#), \$207,350; [8900-0045](#), \$900,000; [8910-0188](#), \$500,000; [8910-1111](#), \$150,000; [8910-2222](#), \$312,000; and [8910-6619](#), \$600,000.

### *Civil Service Exemptions*

SECTION 324. Notwithstanding the provisions of [chapter 31](#) of the General Laws, or any other general or special act to the contrary, the positions funded in items [1150-5100](#), [2300-0101](#), [2320-0100](#), [4510-0100](#), [7002-0101](#), [7002-0200](#), [7002-0201](#), [7006-0020](#), [7006-0040](#) and [8910-7100](#) of section 2 of this act shall not be subject to the provisions of said [chapter 31](#); provided, that clerical positions funded in item [1150-5100](#) shall be subject to the provisions of said [chapter 31](#); provided further, that all positions other than that of assistant commissioner funded in item [4510-0100](#) shall be subject to the provisions of said [chapter 31](#); provided further, that all employees funded from items [7002-0200](#) and [7002-0201](#) other than staff of a program to evaluate asbestos levels in public schools and other public buildings shall be subject to the provisions of said [chapter 31](#); provided further, that all positions other than counsel I and counsel II funded in item [7006-0020](#) shall be subject to the provisions of said [chapter 31](#); and provided further, that all positions other than investigator of radio and television technicians funded in item [7006-0040](#) shall be subject to the provisions of said chapter 31.

*Group Insurance Commission COBRA Recoveries*

SECTION 325. Notwithstanding the provisions of any general or special law to the contrary, the group insurance commission shall recover the maximum amounts allowed under the federal Consolidated Omnibus Budget Reconciliation Act (COBRA) of 1985, as amended. Any costs associated with this recovery may be expended from item [1108-5200](#) of section 2 of this act.

*State Employee Contributions to Dental and Vision Benefits*

SECTION 326. Notwithstanding any provisions of [chapter 32A](#) of the General Laws or any other general or special law to the contrary, all funds appropriated in item [1108-5500](#) of section 2 of this act may be expended for the provision of dental and vision benefits for those active employees of the commonwealth, not including employees of authorities and any other political subdivisions, who are not otherwise provided such benefits pursuant to a separate appropriation or the provisions of a contract or collective bargaining agreement; provided, that the commonwealth, on behalf of active employees, shall contribute 75 per cent of the total monthly premium applicable to said benefits.

*Child Support Enforcement Computer Costs*

SECTION 327. The department of revenue may charge the expenses for computer services, including the cost of personnel and other support costs provided to the child support enforcement division, from item [1201-0100](#) to item [1201-0160](#) of section 2 of this act, consistent with the costs attributable to said division.

*Child Support Enforcement Federal Reimbursements*

SECTION 328. Notwithstanding the provisions of any general or special law to the contrary, federal receipts associated with the child support computer network and personnel associated with said network shall be drawn down at the highest possible rate of reimbursement and deposited into a revolving account to be expended for said network. Federal receipts associated with child support enforcement grants shall be deposited into a revolving account to be drawn down at the highest possible rate of reimbursement and to be expended for the grant authority.

*Municipal Borrowing Technical Changes*

SECTION 329. Notwithstanding the provisions of any general or special law to the contrary, any indebtedness authorized by a city or town prior to July 31, 2003, that was subject to the debt limit prescribed by [section 10 of chapter 44](#) of the General Laws, that was in excess of 2.5 per cent of the equalized

valuation of the city or town but not in excess of 5 per cent of the equalized valuation of the city or town, and that was not approved by the emergency finance board as was required by said section 10 prior to July 31, 2003, may be issued only if such indebtedness is approved by the members of a board composed of the attorney general, the state treasurer, the state auditor and the director of accounts, or their designees.

### *Civil Service Reform*

SECTION 330. The rights of any person in a non-public safety position previously acquired pursuant to [chapter 31](#) of the General Laws shall not be affected by any section of this act while such person remains in the position he held on the effective date of this act, or, through layoff or abolition of position, in a position he occupies in a lower title by way of demotion pursuant to [section 39 of said chapter 31](#); provided, that such person is not covered by a collective bargaining agreement pursuant to [chapter 150E](#) of the General Laws. Any employee in a non-public safety position who is covered by a collective bargaining agreement pursuant to said [chapter 150E](#) shall no longer retain any rights pursuant to said [chapter 31](#). Furthermore, no person shall otherwise retain any rights pursuant to said [chapter 31](#) if he voluntarily relinquishes the title(s) that he held on the effective date of this act.

### *Workers' Compensation Chargeback*

SECTION 331. Notwithstanding the provisions of any general or special law to the contrary, for the purposes of administering the workers' compensation chargeback authorized in item [1750-0105](#) of section 2 of this act, the secretary of administration and finance shall charge state agencies in fiscal year 2005 as provided in this section for workers' compensation costs, including related administrative expenses, incurred on behalf of the employees of said agencies. Administrative expenses shall be allocated based on each agency's per cent of total workers' compensation benefits paid in fiscal year 2004. The personnel administrator shall administer said charges on behalf of said secretary, and may establish such rules and procedures as he deems necessary to implement the provisions of this section. The personnel administrator shall notify agencies regarding the chargeback methodology to be used in fiscal year 2005, notify agencies of the amount of their estimated workers' compensation charges for said fiscal year, and require agencies to encumber funds in an amount sufficient to meet said estimated charges. Said estimated charges for each agency shall not be less than the amount of the actual workers' compensation costs, including related administrative expenses, incurred by each such agency in fiscal year 2004, and may include such additional amounts as are deemed necessary under said regulations. For any agency that fails within 60 days of the enactment of this act to encumber funds sufficient to meet said estimated charges, the comptroller shall so encumber funds on behalf of such agency. The personnel administrator shall determine the amount of the actual workers' compensation costs incurred by each agency in the preceding month, including related administrative expenses, notify each agency of said amounts, charge said amounts to each agency's accounts as estimates of the costs to be incurred in the current month, and transfer said amounts to said item [1750-0105](#). Any unspent balance in said item [1750-0105](#) as of June 30, 2004 in an amount not to exceed 5 per cent of the amount authorized is hereby re-authorized for expenditure in fiscal year 2005. The personnel administrator is hereby authorized to expend from said item [1750-0105](#) in fiscal year 2005, hospital, physician, benefit, and other costs related to workers' compensation for employees of state

agencies, including administrative expenses. Such expenditures may include payments for medical services provided to claimants in prior fiscal years, as well as compensation benefits and associated costs attributable to prior fiscal years.

#### *Information Technology Chargeback Exemption*

SECTION 332. Notwithstanding the provisions of any general or special law to the contrary, for item [1790-0200](#) of section 2 of this act, the cost of computer resources and services for the design, development, and production of reports and information required for analysis related to appropriations bills and other legislation shall not be charged to the executive office for administration and finance, the house of representatives, the senate, or any joint legislative account in fiscal year 2005.

#### *Seasonal Position Authorization*

SECTION 333. Notwithstanding the provisions of [section 1 of chapter 31](#) of the General Laws, or any other general or special law to the contrary, seasonal positions funded by item [1201-0100](#) of section 2 of this act are positions requiring the services of an incumbent, on either a full-time or less than full-time basis beginning no earlier than December 1 and ending no later than November 30; provided, however, that seasonal positions funded by said item may not be filled by an incumbent for more than 10 months within a 12 month period. Notwithstanding the provisions of [section 1 of chapter 31](#) of the General Laws, or any other general or special law to the contrary, seasonal positions funded by items [2810-2000](#) and [2820-0200](#) of section 2 of this act are positions requiring the services of an incumbent, on either a full-time or less than full-time basis beginning no earlier than April 1 and ending no later than November 30 or beginning no earlier than September 1 and ending no later than April 30; provided, however, that seasonal positions funded by said items may not be filled by an incumbent for more than 8 months within a 12 month period. Notwithstanding the provisions of [section 1 of chapter 31](#) of the General Laws, or any other general or special law to the contrary, seasonal positions funded by items [2820-4420](#) and [2820-4421](#) of section 2 of this act are positions requiring the services of an incumbent, on either a full-time or less than full-time basis beginning no earlier than April 1 and ending no later than November 30.

#### *Department of Environmental Protection Lease Flexibility*

SECTION 334. Notwithstanding the provisions of [chapter 7](#) of the General Laws or any other general or special law or regulation to the contrary, the division of capital asset management is hereby authorized on behalf of the department of environmental protection to renegotiate said department's facilities leases at One Winter Street, Boston and 627 Main Street, Worcester to obtain a reduced lease rate for those facilities for the remaining period of the existing leases, and to extend such leases for a period of up to 3 years beyond the 10 year limitation stipulated in said chapter 7.

*Integrated Pest Management Program Assessment*

SECTION 335. Notwithstanding the provisions of any general law or special law to the contrary, \$100,000 of the amount appropriated in item [2511-3002](#) of section 2 of this act shall be assessed upon certified commercial applicators, certified private applicators, licensed applicators, or contractors that spray, release, deposit, or apply pesticides at a school, day care center, or school age child care program; provided, that said companies or individuals shall pay assessments within 30 days after receiving notice from the secretary of the environment of the amounts due, as established in [chapter 132B](#) of the General Laws.

*Campsite Reservation Transaction Charge*

SECTION 336. Notwithstanding the provisions of any general or special law to the contrary, any contract that the department of conservation and recreation enters into or amends with a private entity for the provision of exclusive campsite, facility, and other reservation services shall provide for the assessment, by the reservation services provider to the customer, of a reservation transaction charge for the services rendered, including charges for the making, transfer, and cancellation of a campsite or other reservation, and for the deduction by the reservation service provider of said reservation transaction charge from the amounts payable to said department, pursuant to the provisions of said reservation services contract.

*Department of Conservation and Recreation Trailside Museum*

SECTION 337. Notwithstanding the provisions of sections 40E to 40K and 52 to 55, inclusive, of [chapter 7](#) of the General Laws, the division of capital asset management and maintenance, in consultation with the department of conservation and recreation, through its division of urban parks and recreation, may lease and enter into other agreements for terms not to exceed 25 years, to the Massachusetts Audubon Society, to provide for the continued use, operation, and maintenance, and the repair and improvement, of the state-owned buildings and facilities together with the land and appurtenances associated therewith, comprising the Blue Hills Trailside Museum located in the town of Milton and the Chickatawbut Hill Environmental Education Center located in the City of Quincy, Massachusetts. Such lease or leases and other agreements shall be on terms acceptable to the commissioner of the division of capital asset management and maintenance, after consultation with the commissioner of the department of conservation and recreation, and, notwithstanding the provisions of any general or special law to the contrary, shall provide for the lessee to operate, manage, improve, repair and maintain the properties. Such leases and other agreements shall provide that any benefits to the communities and the costs of improvements and repairs made to the properties provided by the lessee or the recipient of the properties shall be taken into account as part of the consideration for such leases or other agreements. All consideration received from the leases or other agreements shall be payable to the General Fund.



*Massachusetts Water Resources Authority Assessments*

SECTION 338. Notwithstanding the provisions of any general or special law to the contrary, for the purpose of funding that portion of the watershed management program that is directly related to the operations and functions of the division of watershed management within the former metropolitan district commission, as provided for in item [2800-0101](#) of section 2 of this act, the amount appropriated in said item, including associated administrative costs, shall be reimbursed by the Massachusetts water resources authority in the same manner as occurred between the metropolitan district commission and the Massachusetts water resources authority in fiscal year 2003.

*Massachusetts Turnpike Merger*

SECTION 339. Notwithstanding the provisions of any general or special law to the contrary, the secretary of the executive office for administration and finance, on behalf of the commonwealth, shall establish the CA/T Open Spaces Maintenance Trust pursuant to the authority provided by [section 4F of chapter 7](#) of the General Laws for the purposes of maintaining the open spaces, so-called, created by the Central Artery/Tunnel Project.

*Massachusetts Turnpike Merger*

SECTION 340. Notwithstanding the provisions of subsection (b) of [section 12 of chapter 81A](#) of the General Laws, no further transfer of any facility or portion thereof to the authority pursuant to subsection (b) of [section 12 of chapter 81A](#) shall be required on or after the effective date of this act.

*Massachusetts Turnpike Merger*

SECTION 341. Notwithstanding the provisions of any general or special law to the contrary, appropriations for item [6010-1002](#) of section 2 of this act shall be funded 100 per cent from the Turnpike Efficiency Fund.

*Massachusetts Turnpike Merger*

SECTION 342. Notwithstanding the provisions of any general or special law to the contrary, the state comptroller shall transfer \$190,000,000 from the Turnpike Efficiency Fund to the General Fund no later than June 30, 2005.



*Massachusetts Turnpike Merger*

SECTION 343. Notwithstanding the provision of any general or special law to the contrary, the state comptroller shall transfer \$113,272,423 from the Turnpike Efficiency Fund to the General Fund no later than June 30, 2005.

*Massachusetts Turnpike Merger*

SECTION 344. Notwithstanding the provisions of any general or special law to the contrary, the state comptroller shall transfer, upon consultation with the secretary of administration and finance, an amount not to exceed \$50,000,000 from the Turnpike Efficiency Fund to the CA/T Open Spaces Maintenance Trust; provided further, that the Turpike Efficiency Fund shall not end any fiscal year in deficit.

*Capital Authorization for Highway Personnel*

SECTION 345. Notwithstanding the provisions of any general or special law to the contrary, for purposes of item [6010-0001](#) of section 2 of this act, the department of highways is hereby authorized to expend from capital authorizations amounts necessary to cover operational costs of the department in excess of amounts appropriated in said item to ensure that adequate staffing levels are maintained to support the services and programs offered by the department; provided, that the department shall develop a plan to phase into the budgetary appropriation all personnel costs expended from capital authorizations after June 30, 2002; and provided further, that the phase in of these costs shall be complete by June 30, 2006.

*Alternative Housing Voucher Program*

SECTION 346. Notwithstanding the provisions of any general or special law to the contrary, the department of housing and community development shall administer an alternative housing voucher program, so-called, a rental assistance program for non-elderly disabled persons who have also been determined eligible for chapter 667 housing, so-called, pursuant to item [7004-9030](#) in section 2 of this act. Said rental assistance program shall be in the form of mobile vouchers, so-called, which shall be in varying dollar amounts and set by the department on considerations including, but not limited to, household size and composition, household income and geographic location. Any household which is proven to have caused intentional damages to their rental unit in an amount exceeding two month's rent during any one year shall be terminated from the program. Said department shall pay agencies that administer said program an allowance not to exceed \$25 per voucher per month for the costs of administration. There shall be no maximum percentage applicable to the amount of income paid for rent by each household holding a mobile voucher, so-called, but each household shall be required to pay not less than 25 per cent of their net income, as defined in regulations promulgated by said department, for units if utilities are not provided by

the unit owner, or not less than 30 per cent of their income for units if utilities are provided by the unit owner. Payments for said transitional rental assistance may be provided in advance. The amount of a rental assistance voucher payment for an eligible household shall not exceed the rent less the household's minimum rent obligation. The word "rent" as used in this section shall mean payments to the landlord or owner of a dwelling unit pursuant to a lease or other agreement for a tenant's occupancy of the dwelling unit, but shall not include payments made by the tenant separately for the cost of heat, cooking fuel, and electricity. The department is authorized to issue regulations for such program.

### *Housing Subsidy Allocation*

SECTION 347. Notwithstanding the provisions of any general or special law to the contrary, the department of housing and community development shall provide subsidies to housing authorities and nonprofit organizations from line item [7004-9005](#) of section 2 of this act for deficiencies caused by certain reduced rentals in housing for the elderly, handicapped, veterans and relocated persons pursuant to [sections 32 and 40 of chapter 121B](#) of the General Laws. Said department may expend funds for deficiencies caused by certain reduced rentals which may be anticipated in the operation of housing authorities for the first quarter of the subsequent fiscal year. No monies shall be expended for the purpose of reimbursing the debt service reserve included in the budgets of housing authorities. All funds in excess of normal utilities, operations, and maintenance costs may be expended for capital repairs.

### *Housing Subsidy Eligibility*

SECTION 348. Notwithstanding the provisions of any general or special law to the contrary, the department of housing and community development is hereby authorized to conduct annual verifications of household income levels based upon state tax returns for the purposes of administering the state and federal housing subsidy programs funded in items [7004-9004](#), [7004-9005](#), 7004-9009, [7004-9030](#), 7004-9014, 7004-9019, 7004-9020, and [7004-9024](#) of section 2 of this act. As a condition of eligibility or continued occupancy by an applicant or a tenant, said department may require disclosure of the social security number of an applicant or tenant and members of such applicant's or tenant's household for use in verification of income eligibility. Said department is hereby authorized to deny or terminate participation in subsidy programs for failure by an applicant or a tenant to provide a security number for use in verification of income eligibility. Said department may also consult with the department of revenue, the department of transitional assistance or any other state or federal agency which it deems necessary to conduct such income verification. Said state agencies shall consult and cooperate with said department and furnish any information in the possession of said agencies including, but not limited to, tax returns and applications for public assistance or financial aid. The director of said department may enter into an interdepartmental service agreement with the commissioner of revenue to utilize the department of revenue's wage reporting and bank match system for the purpose of verifying the income and eligibility of participants in such federally assisted housing programs and that of members of the participants' households for the purposes of conducting such income verification.

*Massachusetts Housing Finance Agency Interest Subsidy Program*

SECTION 349. Any funds provided from appropriations in section 2 of this act from the department of housing and community development to the Massachusetts housing finance agency for its interest subsidy program under section 13A of chapter 708 of the acts of 1966, as amended, may be allocated by said agency to its existing interest subsidy contracts in a manner as it may determine necessary to maximize the preservation of existing affordable housing units throughout the commonwealth.

*Massachusetts Rental Voucher Program*

SECTION 350. Notwithstanding the provisions of any general or special law to the contrary, the department of housing and community development shall administer a program of rental assistance for low-income families and elderly persons through mobile and project-based vouchers, so-called; provided, that such rental assistance shall only be paid pursuant to a Massachusetts rental voucher program, funded in item [7004-9024](#) in section 2 of this act; provided further, that the income of said households shall not exceed 200 per cent of the federal poverty level; provided further, that said department may award mobile vouchers to such eligible households currently occupying project based units, that shall expire due to the non-renewal of project-based rental assistance contracts. Said department, as a condition of continued eligibility for a voucher and voucher payments, may require disclosure of social security numbers by participants and members of participants' households in the Massachusetts rental voucher program for use in verification of income with other agencies, departments and executive offices in the commonwealth; provided further, that any household in which a participant or member of a participant's household shall fail to provide a social security number for use in verifying the household's income and eligibility shall no longer be eligible for a voucher or to receive benefits from said voucher program. Said vouchers shall be in varying dollar amounts and shall be set by said department based on considerations, including, but not limited to, family size, composition, income level and geographic location. The use of rent surveys shall not be required in determining the amounts of said mobile vouchers, or said project-based vouchers. Any household which is proven to have caused intentional damage to their rental unit in an amount exceeding two month's rent during any one year lease period shall be terminated from the program. A mobile voucher whose use is or has been discontinued shall be re-assigned within 90 days. Said department shall pay agencies \$25 per voucher per month for the costs of administering said program; provided further, that said costs of administration shall not exceed 6 per cent of the appropriation provided in said item [7004-9024](#); provided further, that said 6 per cent shall include, but not be limited to, all expenditures which may be made by said department to conduct or otherwise contract for rental voucher program inspections; provided further, that subsidies shall not be reduced for the cost of accommodating the cost of said inspections. There shall be no maximum percentage applicable to the amount of income paid for rent by each household holding a mobile voucher, or project-based voucher, but each household shall pay at least 30 per cent of its income as rent; provided further, that said department shall establish the amounts of the mobile vouchers, and the project based vouchers, so that the appropriation in said item [7004-9024](#) is not exceeded by payments for rental assistance and administration; provided further, that said department shall not enter into commitments which will cause it to exceed the appropriation set forth in said item [7004-9024](#); provided further, that ceiling rents, so-called, shall not be enforced by said department. Households holding mobile vouchers shall have priority for occupancy of said project-based dwelling units in the event of a vacancy.

Said department may impose certain obligations for each participant in the Massachusetts rental voucher program through a 12 month contract which shall be executed by the participant and said department; provided further, that such obligations may include, but need not be limited to, job training, counseling, household budgeting, and education, as defined in regulations promulgated by said department and to the extent such programs are available. Each participant shall be required to undertake and meet any such contractually established obligation as a condition for continued eligibility in the program; provided further, that for continued eligibility each participant shall execute any such 12 month contract on or before September 1, 2004 if his or her annual eligibility recertification date occurs between June 30, 2004 and September 1, 2004 and otherwise on or before his or her annual eligibility recertification date. Any participant who is over the age of 60 years or who is handicapped may be exempted from any obligations unsuitable under particular circumstances. The department is authorized to issue regulations for such program.

### *Neighborhood Housing Services Rehabilitation Program*

SECTION 351. Notwithstanding the provisions of section 12 of chapter 490 of the acts of 1980, the department of housing and community development may authorize neighborhood housing services corporations to retain, reassign and re-loan funds received in repayment of loans made pursuant to the neighborhood housing services rehabilitation program.

### *Rent Escrow Program*

SECTION 352. Notwithstanding the provisions of any general or special law to the contrary, the department of housing and community development shall administer a rent escrow program, so called, pursuant to item [7004-9004](#) of section 2 of this act, to enable households in state-assisted public housing to transition to unsubsidized housing options in the private market; provided, that up to 5,000 qualified households residing in chapter 200 or chapter 705 state-assisted housing developments shall be allowed to participate in a voluntary program that allows a portion of a household's rental payments to a housing authority to be placed in escrow accounts for the purpose of making said transition affordable, including down payment costs, closing costs, first and last month's rent, security deposit, moving costs, and appliances necessary for occupancy. Said department, subject to appropriation, shall contribute \$1 for every \$2 of a rental payment placed by a household in such an escrow account which shall accrue to the benefit of the household. The amount of said rental payments eligible to be placed in said escrow accounts shall consist of the savings in rent payments derived by allowing an adjustment to a household's income for purposes of computing rent for the amounts withheld from a household's earned income for (1) state and federal income tax withholding payments and (2) payments for Social Security, FICA, or other retirement deductions and (3) other deductions as may be allowed by law or regulation consistent with the provisions of this item. In promulgating regulations that allow a household's income to be so adjusted for the calculation of rental payments, said department shall establish a uniform method for calculating the amount of rent adjustments allowable under said program. Said regulations shall not include in said calculation the amounts withheld from a dependent's income nor shall the income of any such dependent be subject to escrow. A household participating in said program shall agree in writing to the minimum amount needed to

be held in escrow in order to provide for said affordable transition and to a maximum amount to be held in said escrow account. In no event shall the amount of any escrow account exceed \$10,000. Rental payments held in escrow for a household that elects not to make said transition pursuant to the written agreement or which is evicted by a housing authority for any reason shall be repaid to the housing authority and the commonwealth for the value of any rent subsidy provided to said household and the matching contribution paid by the department. A household that loses eligibility for state-assisted public housing due to increased income earnings shall use the amount held in escrow for the purposes of transition housing costs. The use of escrowed rental payments by a household for said transition costs shall be verified by the household and any funds not used for transition costs shall be recovered by the housing authority. Said department shall select housing authorities that demonstrate a willingness and capability to participate in said program. Said authorities may, for the purposes of administrative efficiency, maintain a centralized escrow account in lieu of separate accounts for each participating household; provided, that detailed accounting records shall be maintained for each participating household by a housing authority that establishes such a centralized escrow account. Said housing authorities shall take all steps to invest said escrow accounts in investment vehicles that maximize the interest earned on said escrow accounts. Said housing authorities may retain not more than 20 per cent of any such interest earned on rental payments held in escrow to offset the costs of administering said program. The remaining interest earnings shall be credited to the escrow account of a household. Said department shall require said housing authorities to obtain the social security numbers of households participating in said program to verify household income and deductions with the department of revenue and other parties. Rental payments held in escrow shall be treated as deductible rent for purposes of calculating Massachusetts personal income taxes pursuant to subparagraph (9) of paragraph (a) of part B of [section 3 of chapter 62](#) of the General Laws. The release of escrow payments to a household, including interest earned thereon and the value of the matching contribution, shall not create any tax liability for such a household; provided, that a tax liability shall be created in the event that a household does not elect to make said transition pursuant to said written agreement. Said department may transfer funds provided in item [7004-9004](#) to item [7004-9005](#) of section 2 of this act for the purposes of supplementing rental funds directed toward said program.

### *Health and Human Services Core Functions*

SECTION 353. Notwithstanding the provisions of any general or special law to the contrary, in order to improve administrative efficiency and preserve fiscal resources, the secretary of the executive office of health and human services is hereby authorized to identify administrative activities and functions common to the separate agencies, departments, offices, divisions and commissions within the executive office and to designate such functions "Core Administrative Functions". Common functions that may be designated Core Administrative Functions include, without limitation, human resources, financial management, information technology and human services transportation. All employees performing functions so designated may be employed by the executive office, and the executive office shall charge said agencies, departments, offices, divisions and commissions for such services, subject to appropriation.

Upon the designation of a function as a Core Administrative Function, the employees of each agency, department, office or commission who perform such core administrative functions may be transferred to the executive office of health and human services. The reorganization shall not impair the civil service status of any such transferred employee who immediately before the effective date of this act either holds a permanent appointment in a position classified under [chapter 31](#) of the General Laws or has tenure in a

position by reason of [section 9A of chapter 30](#) the General Laws.

Nothing in this section shall be construed to impair or change an employee's status, rights, or benefits under [chapter 150E](#) of the General Laws.

### *Healthy Start Program*

SECTION 354. Notwithstanding the provisions of any general or special law to the contrary, in order to assure the fiscal integrity of the healthy start program authorized by [section 10E of chapter 118E](#) of the General Laws, the executive office of health and human services, acting as the single state agency under said chapter, shall be authorized to revise program requirements to assure that the expenditures for the healthy start program do not exceed the amount appropriated in item [4000-0895](#) in section 2 of this act.

### *MassHealth Essential - Hospital FY2005 Expenditure Authorization*

SECTION 355. Notwithstanding the provisions of any general or special law to the contrary, the Title XIX single state agency shall administer a program of preventive and primary care for chronically unemployed persons who are not receiving unemployment insurance benefits but who are determined by the agency to be long-term unemployed, provided that such persons meet the eligibility requirements established under the MassHealth program established in [section 9A of chapter 118E](#); provided, that such persons' financial eligibility shall not exceed 100 per cent of the federal poverty level. Such eligibility requirements shall not exclude from eligibility persons who are employed intermittently or on a non-regular basis. The provision of care to such persons under this program may, taking into account capacity, continuity of care and geographic considerations, be restricted to certain providers including community health centers, hospital licensed health centers, mental health providers, and, where necessary to ensure access, larger primary group practice settings. Funding for the program may not exceed \$160,000,000 in hospital fiscal year 2005. Enrollment in the program shall not exceed 36,000 persons unless the agency determines that there is adequate funding to increase enrollment and, 60 days prior to enrolling any person beyond the 36,000 cap, notifies the secretary of administration and finance and the house and senate committees on ways and means. The agency is hereby authorized to operate said program until September 30, 2005. Implementation of the program shall be contingent upon the agency obtaining any required federal approval. The agency shall account for all spending on said program on the Massachusetts management accounting reporting system.

### *Health Facility Federal Reimbursement for Low-Income Care Costs*

SECTION 356. Notwithstanding the provisions of any general or special law to the contrary, the department of mental health, the department of public health, the division of medical assistance and the division of health care finance and policy shall take any appropriate action to obtain the maximum amount of federal financial participation available for amounts paid for low-income care costs at those mental health



and public health facilities determined to be disproportionate share hospitals in accordance with requirements of Title XIX of the Social Security Act. Such appropriate action may include, but shall not be limited to, the establishment of a separate account within the Uncompensated Care Trust Fund, established by [section 18 of chapter 118G](#) of the General Laws, for the purpose of making disproportionate share payment adjustments to such qualifying mental health and public health facilities under relevant division of health care finance and policy regulations and the Title XIX state plan on file with the centers for Medicare and Medicaid services. The division of medical assistance, the department of public health and the department of mental health may expend amounts transferred to them from such separate account within the Uncompensated Care Trust Fund without further appropriation. Any federal funds obtained as a result of actions taken pursuant to this section shall be deposited in the General Fund. The state treasurer and the comptroller shall establish such procedures as may be necessary to accomplish the purpose of this section, including procedures for the proper accounting and expenditure of funds under this section.

#### *Uncompensated Care Trust Fund Federal Reimbursement*

SECTION 357. Notwithstanding the provisions of any general or special law to the contrary, the division of medical assistance, in this section called the division, and the division of health care finance and policy shall take any appropriate action to obtain the maximum amount of federal financial participation available for amounts paid to hospitals, determined by the division to be disproportionate share hospitals in accordance with Title XIX requirements, for free care costs of such hospitals. Such appropriate action may include, but shall not be limited to, the assessment on hospitals for their liability to the uncompensated care pool pursuant to [chapter 118G](#) of the General Laws. Such appropriate action shall include the establishment or renewal of an interdepartmental services agreement between the division and the division of health care finance and policy which may authorize the division to make deposits into and payments from an account established for the purposes of this section within the Uncompensated Care Trust Fund, established by [section 18 of said chapter 118G](#), or authorize the division of health care finance and policy to transfer uncompensated care fee revenue collected from hospitals pursuant to said [chapter 118G](#) or funds otherwise made available to said trust fund by the general court, to the division for the purposes of making disproportionate share adjustment payments to hospitals qualifying for such payments in accordance with the commonwealth's Title XIX state plan and relevant provisions of Title XIX. The division may expend amounts transferred to it from the Uncompensated Care Trust Fund by the division of health care finance and policy under such interdepartmental services agreement without further appropriation. In no event shall the amount of money assessed upon each hospital exceed the hospital's gross liability to the Uncompensated Care Trust Fund as determined by the division of health care finance and policy pursuant to said [section 18 of said chapter 118G](#). Any federal funds obtained as a result of said actions shall be deposited in the General Fund. The offices of the state treasurer and the comptroller shall establish such procedures as may be necessary to accomplish the purpose of this section, including procedures to facilitate the expeditious assessment, collection and expenditure of funds pursuant to this section.

#### *Initial Gross Payment to Qualifying Acute Care Hospitals*

SECTION 358. Notwithstanding the provisions of any general or special law to the contrary, the comptroller

shall transfer on or before June 30, 2005, without further appropriation, \$30,000,000 from the General Fund to the Uncompensated Care Trust Fund, established pursuant to [section 18 of chapter 118G](#) of the General Laws, for the purpose of making initial gross payments to qualifying acute care hospitals for the hospital fiscal year beginning October 1, 2004. Said payments shall be made to hospitals prior to, and in anticipation of, the payment by hospitals of their gross liability to said fund. The comptroller shall transfer from the Uncompensated Care Trust Fund to the General Fund not later than June 30, 2005, the amount of the transfer authorized herein and any allocation thereof as certified by the commissioner of the division of health care finance and policy.

#### *Intergovernmental Transfer - Acute Care Hospitals*

SECTION 359. Notwithstanding the provisions of any general or special law to the contrary, the division of medical assistance may expend, subject to federal approval, an amount not to exceed \$172,000,000 from the medical assistance intergovernmental transfer account within the Uncompensated Care Trust Fund for Title XIX payments to certain acute care hospitals. The payments shall be established in accordance with Title XIX of the federal Social Security Act, or any successor federal statute, any regulations promulgated thereunder, the commonwealth's Title XIX state plan, and the terms and conditions of agreements reached with the division for such payments. No such funds shall be expended unless the acute care hospital has executed the division of medical assistance's current Acute Hospital Request for Applications and Contract, and unless a public entity is legally obligated to make an intergovernmental funds transfer in an amount specified in an agreement with such entity, which amount shall be not less than 50 per cent of the Title XIX payment. All revenues generated pursuant to the provisions of this section shall be credited to the medical assistance intergovernmental transfer account and administered in accordance with the provisions of subsection (o) of [section 18 of chapter 118G](#) of the General Laws. An accounting of such payments shall be reported quarterly to the secretary of administration and finance and the house and senate committees on ways and means.

#### *Intergovernmental Transfer - MassHealth Managed Care Contracts*

SECTION 360. Notwithstanding the provisions of any general or special law to the contrary, during fiscal year 2005 and including the accounts payable period for that fiscal year, the division of medical assistance may expend from the medical assistance intergovernmental transfer account within the Uncompensated Care Trust Fund an amount not to exceed \$700,000,000 for a program of MassHealth supplemental payments to certain publicly operated entities providing Title XIX reimbursable services, directly or through contracts with hospitals under an agreement with the division relating to such payments and transfers as established in accordance with Title XIX of the Social Security Act or federal waivers thereof, federal regulations promulgated thereunder, the terms of the waiver under section 1115 of the Social Security Act, state law, and the Medicaid state plan. The funds may be expended only for payment obligations arising during fiscal year 2005. Such expenditures shall reduce payments from the Uncompensated Care Trust Fund to such entities by an amount comparable to the net revenues received by such entities under this section. The division of medical assistance shall notify the house and senate committees on ways and means if such expenditures are rendered ineligible for federal reimbursement. Amounts so authorized for



said expenditure shall be funded in part through intergovernmental transfers to the commonwealth of municipal or other non-federal public funds. The Boston public health commission and the Cambridge public health commission shall transfer to said medical assistance intergovernmental transfer account an amount not less than 55 per cent of the gross amounts of supplemental payments made by the division of medical assistance under managed care contracts with the commissions. An amount equal to one-eleventh of the total amount that the Boston and Cambridge public health commissions transfer to the medical assistance intergovernmental transfer account pursuant to this section shall be transferred from said medical assistance intergovernmental transfer account to revenues available for the administration of the uncompensated care pool, as established under subsection (d) of [section 18 of chapter 118G](#) of the General Laws and section [372](#) of this act.

#### *Intergovernmental Transfer - Public Nursing Facilities*

SECTION 361. Notwithstanding the provisions of any general or special law to the contrary, the division of medical assistance may expend an amount not to exceed \$16,000,000 from the medical assistance intergovernmental transfer account within the Uncompensated Care Trust Fund for Title XIX payments to certain publicly owned or publicly operated providers. The payments shall be established in accordance with Title XIX of the federal Social Security Act, or any successor federal statute, any regulations promulgated thereunder, the commonwealth's Title XIX state plan and the terms and conditions of agreements reached with the division for such payments. No funds shall be expended unless a public entity is legally obligated to make an intergovernmental funds transfer in an amount specified in an agreement with such entity, which amount shall not be less than 50 per cent of the Title XIX payment. All revenues generated pursuant to the provisions of this section shall be credited to the medical assistance intergovernmental transfer account and administered in accordance with the provisions of subsection (o) of [section 18 of chapter 118G](#) of the General Laws.

#### *Intergovernmental Transfer - UMass Memorial and Affiliated Hospitals*

SECTION 362. Notwithstanding the provisions of any general or special law to the contrary, the division of medical assistance may expend, subject to federal approval, an amount not to exceed \$125,000,000 from the medical assistance intergovernmental transfer account within the Uncompensated Care Trust Fund for Title XIX payments to the University of Massachusetts Memorial Hospital and its affiliated hospitals. The payments shall be established in accordance with Title XIX of the federal Social Security Act, or any successor federal statute, any regulations promulgated thereunder, the commonwealth's Title XIX state plan, and the terms and conditions of agreements reached with the division for such payments. No such funds shall be expended unless the University of Massachusetts Memorial Hospital and its affiliated hospitals have executed the division of medical assistance's current Acute Hospital Request for Applications and Contract, and the University of Massachusetts Medical School makes an intergovernmental funds transfer in an amount specified in an agreement, which amount shall be not less than 50 per cent of the Title XIX payment. All revenues generated pursuant to the provisions of this section shall be credited to the medical assistance intergovernmental transfer account and administered in accordance with the provisions of subsection (o) of [section 18 of chapter 118G](#) of the General Laws. Not later than 60 days after such

expenditure, the University of Massachusetts Medical School shall submit to the secretary of administration and finance and the house and senate committees on ways and means a report detailing the programs funded from revenue associated with this section.

*MassHealth - Spending Authorization for Nursing Facility Assessment*

SECTION 363. Notwithstanding the provisions of any general or special law to the contrary, in fiscal year 2005, up to \$288,500,000 shall be expended from the Health Care Quality Improvement Trust Fund, established pursuant to [section 2EEE of chapter 29](#) of the General Laws, to support payments for services provided to MassHealth members by nursing facilities participating in the MassHealth program, as well as the following expenditures:

- (1) \$300,000 shall be expended to fund expenses at the division of health care finance and policy to administer [section 25 of chapter 118G](#) of the General Laws.
- (2) \$250,000 shall be expended to fund expenses at the division of health care finance and policy to conduct audits to verify nursing facility compliance with the provisions of [section 25 of said chapter 118G](#).

The comptroller shall transfer from the Health Care Security Trust Fund to the Health Care Quality Improvement Trust Fund on the first business day of each quarter, the amount indicated by the divisions of health care finance and policy and medical assistance to fund expenditures described herein.

*MassHealth - Utilization Control and Review*

SECTION 364. Notwithstanding the provisions of any special or general law to the contrary, the secretary of health and human services, may make expenditures from items [4000-0430](#), [4000-0500](#), [4000-0600](#), [4000-0620](#), [4000-0700](#), [4000-0860](#), [4000-0870](#), [4000-0875](#), [4000-0880](#), [4000-0890](#), [4000-0891](#), and [4000-1400](#) of section 2 of this act, for activities relating to disability determinations or utilization control and review, including, but not limited to, patient screenings and evaluations, regardless of whether such activities are performed by a state agency, contractor, agent or provider.

*Medicaid - Maximization of Third Party and Federal Revenue*

SECTION 365. Notwithstanding the provisions of any general or special law to the contrary, state agencies and direct and subcontracted providers of health-related services, including purchase-of-service providers, financed from appropriation items for any state agency, shall maximize Title XIX and all other federal, state and private health insurance coverage available to offset costs to the commonwealth. The agencies or providers shall collect information from clients, or from the parent or guardian of a minor receiving services, necessary to determine the extent to which clients may be eligible for medical assistance benefits under [chapter 118E](#) of the General Laws or are beneficiaries of any health insurance policy. The agency or provider shall forward client information collected under this section to the division of medical assistance and such data shall only be used to match against available databases for the purpose of identifying all

sources of potential payment for health services or health insurance coverage. As required or permitted by federal law, the division shall return the results of any such data matches to the originating agency, which shall take the appropriate action to ensure that costs to the commonwealth are minimized. Such actions shall include, but not be limited to, the agency or provider billing or re-billing all verified third-party sources. The executive office of administration and finance may grant an agency or provider an exemption from this section for good cause. The executive office of health and human services and the operational services division within the executive office of administration and finance shall review regulations, contracting forms, service delivery reports and uniform financial reporting requirements to determine what changes are necessary for the successful implementation of this section.

#### *Personal Needs Accounts Balances to Support MassHealth*

SECTION 366. Notwithstanding the provisions of any general or special law to the contrary, the balance of any personal needs accounts collected from nursing and other medical institutions after a recipient's death and held by the division for more than three years, may be credited to item [4000-0320](#) of section 2 of this act.

#### *MassHealth Retention of Current and Prior Year Recoveries*

SECTION 367. Notwithstanding the provisions of any general or special law to the contrary, with the exception of expenditure refunds, recoveries of any current and prior year expenditures including, but not limited to, monies collected from estates, liens, third parties, insurers, Medicare, drug manufacturers, and providers shall be credited to item [4000-0320](#) of section 2 of this act to be expended by the secretary of health and human services for costs related to the provision of the MassHealth program, as established under [Chapter 118E](#) of the General Laws; provided, that the executive office of health and human services may recover provider overpayments made in the current and prior fiscal years through the Medicaid management information system; and provided further, that the secretary of administration and finance may from time to time increase the amount of said item to the amount equal to updated current and prior year recovery projections as certified by the secretary of health and human services.

#### *UMass/Health and Human Services Interagency Service Agreements*

SECTION 368. Notwithstanding the provisions of any general or special law to the contrary, including [chapter 29](#) of the General Laws, the executive office of health and human services pursuant to [section 15 of chapter 26 of the acts of 2003](#), acting in its capacity as the single state agency under Title XIX of the Social Security Act and other federally assisted programs administered by said secretariat, and as the principal agency for all of the agencies within the secretariat, is authorized to enter into interdepartmental service agreements with the university of Massachusetts medical school to perform such activities as the secretary determines are appropriate and within the scope of the proper administration of said Title XIX and other

federal funding provisions to otherwise support the programs and activities of the executive office. Such activities shall include, but not be limited to, (1) provision of administrative services, including, but not limited to, activities such as providing the medical expertise to support or administer utilization management activities, determining eligibility based on disability, supporting case management activities and similar initiatives, (2) consulting services related to quality assurance, program evaluation and development, integrity and soundness, and project management; and (3) activities and services for the purpose of pursuing federal reimbursement or avoiding costs, third party liability and recouping payments to third parties. Federal payments related to administrative services provided under said Title XIX or other federally assisted programs shall be distributed to said university. The secretary may negotiate contingency fees for activities and services related to the purpose of pursuing such federal reimbursement or avoiding costs, and the comptroller shall be directed to pay upon the receipt of such revenue, reimbursement or demonstration of costs avoided; provided however that the secretary shall not pay contingency fees in excess of \$30,000,000 for state fiscal year 2005. Certification under [sections 29E or 31 of chapter 29](#) of the General Laws shall not be required for the purposes of this section. The secretary of health and human services shall submit to the secretary of administration and finance and the house and senate committees on ways and means a quarterly report detailing the amounts of the agreements, the amounts spent on personnel and the amount of federal reimbursement and recoupment payments the said university was able to collect.

#### *Transferability for MassHealth*

SECTION 369. Notwithstanding the provisions of any general or special law to the contrary, the secretary of health and human services may authorize transfers among items [4000-0300](#), [4000-0430](#), [4000-0500](#), [4000-0600](#), [4000-0620](#), [4000-0700](#), [4000-0860](#), [4000-0870](#), [4000-0875](#), [4000-0880](#), [4000-0890](#), [4000-0891](#), and [4000-1400](#) of section 2 of this act. The amount transferred from any said items shall not exceed 10 per cent of the appropriation in that item. Any such transfer shall take place no later than June 30, 2005.

#### *Hospital Assessments - Health Care Finance and Policy Administration*

SECTION 370. Notwithstanding any provisions of [section 5 of chapter 118G](#) of the General Laws to the contrary, the amount assessed to acute hospitals in fiscal year 2005 for the estimated expenses, including indirect costs, of the division of health care finance and policy, shall be equal to the amount appropriated in item [4100-0060](#) of section 2 of this act less amounts projected to be collected in fiscal year 2005 from (1) filing fees, (2) fees and charges generated by the division's publication or dissemination of reports and information, and (3) federal financial participation received as reimbursement for the division's administrative costs. Said assessed amount shall not be less than 65 per cent of the division's expenses as specified herein.

#### *Uncompensated Care Pool Audit*

SECTION 371. Notwithstanding the provisions of any general or special law to the contrary, the unexpended balance of any fiscal year 2004 expenditures described in subsection (4) of [section 620 of chapter 26 of the acts of 2003](#) and in the tenth paragraph of [section 644 of said chapter 26](#) shall be made available for expenditure in fiscal year 2005.

*Uncompensated Care Pool Private Sector Liability*

SECTION 372. Notwithstanding the provisions of any general or special law to the contrary, in hospital fiscal year 2005, the division of health care finance and policy is authorized to administer, as provided in this section, the Uncompensated Care Trust Fund established by [section 18 of chapter 118G](#) of the General Laws, to collect assessments as specified herein for deposit to the Uncompensated Care Trust Fund, and to make certain payments to acute hospitals and community health centers from the uncompensated care pool, established under subsection (d) of [section 18 of said chapter 118G](#), to offset the costs of services provided to certain low income residents of the commonwealth. The division and the Title XIX single state agency may promulgate regulations to implement any of the provisions in this section.

The division, in consultation with the division of medical assistance and the executive office of health and human services, shall ensure that assessment liability to the Uncompensated Care Trust Fund and payments from the uncompensated care pool are structured in a manner that would secure for the General Fund the maximum allowable federal reimbursement under Title XIX, XXI or any successor federal statutory provisions. All payments made pursuant to this section are subject to federal approval and conditioned on the receipt of full federal financial participation. All such payments shall be established in accordance with Title XIX of the Social Security Act, or any successor federal statute, any regulations promulgated thereunder and the commonwealth's Title XIX state plan.

In hospital fiscal year 2005, the assessment liability of all acute care hospitals to the Uncompensated Care Trust Fund shall be \$165,000,000 and the division of health care finance and policy shall calculate an assessment percentage rate by dividing \$165,000,000 by the projected annual aggregate private sector charges in the fiscal year for all acute care hospitals. Each acute care hospital's assessment liability to said fund shall be equal to the product of the percentage rate and its private sector charges.

In hospital fiscal year 2005, the total surcharge liability of surcharge payers to the Uncompensated Care Trust Fund shall be \$165,000,000. The surcharge amount for each surcharge payer shall be equal to the product of (a) the surcharge percentage and (b) amounts paid for services of an acute hospital or ambulatory surgical center by each surcharge payer. The division of health care finance and policy shall calculate the surcharge percentage by dividing \$165,000,000 by the projected annual aggregate "payments subject to surcharge", as that phrase is defined in [section 1 of said chapter 118G](#).

All Title XIX federal financial participation revenue generated by any hospital payments funded by the Uncompensated Care Trust Fund, whether the payments are made by the division of health care finance and policy or the Title XIX single state agency, shall be credited to the General Fund; provided however, that for fiscal year 2005, the comptroller shall transfer to the Uncompensated Care Trust Fund the sum of \$128,000,000 of the total federal financial participation credited to the General Fund; provided further, that said sum shall be exclusive of any federal revenues generated pursuant to the implementation of [section 117 of chapter 140 of the acts of 2003](#). The provisions of said section 117 shall apply in hospital fiscal year

2005.

The division of health care finance and policy shall calculate an annual maximum reimbursement amount from the uncompensated care pool to each acute hospital for fiscal year 2005. In determining said annual maximum reimbursement amount, the division shall (a) take into account such factors as each hospital's reported unreimbursed free care volume, claims, costs and charges or any other reported data related to uncompensated care provided to low income residents of the commonwealth for fiscal year 2004 and other prior fiscal periods, as well the results of any audit or administrative review of such data that is conducted by the division, its agents or other agencies of the commonwealth; the financial burden of hospitals that provide proportionately the largest volume of free care, the situation of any free-standing pediatric hospital with a disproportionately low volume of Title XVIII payments; and (b) allocate the available funds in a manner that sets for each hospital a maximum reimbursement amount equal to a percentage of its projected free care costs for hospital fiscal year 2005, as determined by the division under this section, provided that the percentage shall not be less than 85 per cent of free care costs, as defined in [section 1 of said chapter 118G](#), for the 2 disproportionate share hospitals with the highest relative volume of free care costs in hospital fiscal year 2003, and not less than 88 per cent of free care costs, as defined under [section 1 of chapter 118G](#), for the 10 acute hospitals with the next highest relative volume of free care costs in said year. The annual maximum reimbursement amount shall be set for all other acute hospitals at an amount that reflects the highest possible percentage of projected free care costs given available remaining funds allocated for the purpose by this section. The hospital fiscal year 2005 annual maximum reimbursement amount to each hospital shall be funded by the Uncompensated Care Trust Fund; provided, that said annual reimbursement amount may be satisfied through either a disproportionate share payment or an adjustment to Title XIX service rate adjustment payment, or combination thereof, in accordance with the terms provided for in an agreement entered into by any acute hospital and the division of medical assistance. The comptroller shall transfer to the division of medical assistance accounts, without further appropriation, such funds as are certified by the division as necessary to meet the costs of said Title XIX service rate adjustment payments.

The division of medical assistance shall maximize the use of other federally permissible funding mechanisms available for publicly-operated hospitals and hospitals with an affiliation with a publicly-operated health care entity to reimburse up to \$70,000,000 of uncompensated care costs at the hospitals using sources distinct from the funding made available to the Uncompensated Care Trust Fund under this section.

In hospital fiscal year 2005, \$300,000,000 from the Uncompensated Care Trust Fund shall be credited to the uncompensated care pool for payments to acute hospitals provided for herein and \$56,000,000 from the Uncompensated Care Trust Fund shall be credited to said pool for payments to community health centers provided for in this section or in regulations promulgated pursuant to this section. The comptroller shall transfer, without further appropriation, \$160,000,000 from the Uncompensated Care Trust Fund to the Title XIX single state agency for the purposes of meeting payment obligations for services provided pursuant to section [355](#).

### *Ferguson Industries Retiree Grants*

SECTION 373. Retired workshop employees from the Ferguson Industries for the blind shall receive grants



from item [4110-4000](#) of section 2 of this act equal to three-fourths of the salaries of current workshop employees.

*Transferability for the Massachusetts Commission for the Blind*

SECTION 374. The commissioner of the Massachusetts commission for the blind may transfer funds between items [4110-0001](#), [4110-1000](#), [4110-1010](#), [4110-1020](#), [4110-2000](#), [4110-2001](#), [4110-3010](#), and [4110-4000](#) of section 2 of this act. The amount transferred from any of the items stated herein shall not exceed 10 per cent of the total amount appropriated for that item. Any such transfers shall take place no later than June 30, 2005.

*Transferability for the Massachusetts Rehabilitation Commission*

SECTION 375. Notwithstanding the provisions of any general or special law to the contrary, the commissioner of the Massachusetts rehabilitation commission is authorized to transfer funds between items [4120-1000](#), [4120-2000](#), [4120-3000](#), [4120-4000](#), [4120-4010](#), [4120-5000](#), and [4120-6000](#) of section 2 of this act. The amount transferred from any one of these items shall not exceed 10 per cent of the total amount appropriated for that item. Any such transfers shall take place no later than June 30, 2005. Amounts appropriated to the commission in fiscal year 2005 that extend or expand services beyond the level of services provided in fiscal year 2004 shall not annualize above the amounts in fiscal year 2006.

*Transferability for the Department of Youth Services*

SECTION 376. Notwithstanding the provisions of any general or special law to the contrary, the commissioner of the department of youth services is authorized to transfer from items [4200-0100](#), [4200-0200](#), and [4200-0300](#) to another of said items up to 10 per cent of the appropriation in the line items. Any such transfers shall take place no later than June 30, 2005.

*Federal Food Stamp Reimbursement for Employment Services Program*

SECTION 377. Notwithstanding the provisions of any general or special law to the contrary, for item [4401-1100](#) of section 2 of this act, the department of transitional assistance may expend reimbursements received from the United States Department of Agriculture for food stamp outreach and employment and training programs and any enhanced funding or bonuses. The department may expend such revenue for employment and training services provided to recipients of transitional aid to families with dependent children and related administrative costs.

*TAFDC Eligibility Standards*

SECTION 378. Notwithstanding the provisions of [chapter 118](#) of the General Laws or any other general or special law to the contrary, the monthly payment and need standards for families eligible under said [chapter 118](#) shall equal the standard in effect in fiscal year 2001 unless the department of transitional assistance determines that a reduction in the monthly payment standard should be implemented before the end of the fiscal year to keep program expenditures within the limits established by the existing fiscal year appropriation. The payment standard for families who do not qualify for an exempt category of assistance under the provisions of subsection (e) of section 110 of chapter 5 of the acts of 1995 shall be 2.75 per cent below the otherwise applicable payment standard. The department shall provide, subject to the availability of appropriation, a \$40 per month rent allowance to households incurring a rent or mortgage expense and not residing in public or subsidized housing. A nonrecurring children's clothing allowance in the amount of \$150 shall be provided to each child eligible under this program in September, 2004. Notwithstanding the provisions of [sections 26 or 27 of chapter 18](#), the department shall, upon the request of a landlord, deduct rent from the assistance otherwise paid to the family and pay it directly to the landlord, provided, that the local board of health, a local housing authority, a regional housing agency, or other qualified entity as determined by the Department has certified that the unit meets the minimum housing code requirements. The department shall provide assistance to pregnant women with no other eligible children only if it has been medically verified that the child is expected to be born within the month such payments are to be made or within the three month period following such month of payment, and who, if such child had been born and was living with her in the month of payment would be categorically and financially eligible for benefits under this chapter.

*Transitional Supplemental Security Income Reform*

SECTION 379. Notwithstanding the provisions of section [188](#) of this act or the provisions of any other general or special law to the contrary, recipients of MassHealth benefits under subclause (i) of clause (g) of subsection (2) of [section 9A of chapter 118E](#) of the General Laws shall continue to receive such benefits until such time that said recipients no longer meet the eligibility requirements in place as of February 29, 2004 for the emergency assistance to the elderly, disabled, and children program, as established under [chapter 117A](#) of the General Laws.

*Special Education Rates*

SECTION 380. Notwithstanding the provisions of any general or special law to the contrary, the division of purchased services of the operational services division which, under section 274 of chapter 110 of the acts of 1993, is responsible for determining prices for programs under [chapter 71B](#) of the General Laws, shall set all such prices in fiscal year 2005 at the same level calculated for fiscal year 2004 except the prices for those programs for Extraordinary Relief, as defined in 808 CMR 1.06(4). Programs for which prices in fiscal



year 2004 were lower than the full amount permitted by the division of purchased services shall be permitted to charge in fiscal year 2005 the full price calculated for fiscal year 2004.

*Transferability for the Department of Mental Health*

SECTION 381. The commissioner of the department of mental health may allocate an amount not to exceed \$5,000,000 from item [5095-0015](#) to item [5046-0000](#) of section 2 of this act as necessary for residential and day services for clients formerly receiving care at department facilities.

*Transferability for Department of Mental Health Child Placement Funds*

SECTION 382. Notwithstanding the provisions of any special or general law to the contrary, the commissioner of the department of mental health may allocate funds from the amount appropriated in item [5042-5000](#) of section 2 of this act to other departments, offices, divisions, agencies or other entities within the executive office of health and human services to provide services to children and adolescents determined to be medically ready for discharge from acute hospital units or mental health facilities but who are experiencing delays in being discharged due to the lack of more appropriate settings.

*Rolland Settlement Agreement*

SECTION 383. Notwithstanding the provisions of any general or special law to the contrary, not less than \$5,000,000 shall be made available from item [5920-2000](#) of section 2 of this act for the transition of nursing home residents who qualify for community residential services pursuant to the settlement agreement in Rolland v. Cellucci.

*Transferability for the Department of Mental Retardation*

SECTION 384. Notwithstanding the provisions of any general or special law to the contrary, the commissioner of the department of mental retardation is authorized to transfer funds from item [5930-1000](#) to items [5920-2000](#), [5920-2010](#), and [5920-2025](#), as necessary for residential and day services for clients formerly receiving inpatient care at ICF/MRs; provided, that said commissioner is further authorized to transfer not more than \$5,000,000 from item [5920-2000](#) to item [5920-2010](#). The purpose of any transfer of funds pursuant to this section shall be to provide clients receiving services from the department of mental retardation with appropriate supports in the least restrictive setting possible.

*Coordination of Prescription Advantage with Federal Program*

SECTION 385. Notwithstanding the provisions of any general or special law to the contrary, the secretary of elder affairs in coordination with the secretary of health and human services shall revise the program requirements for the prescription drug insurance program authorized by [section 39 of chapter 19A](#) of the General Laws, as amended by [section 614 of chapter 26 of the acts of 2003](#). The purpose of these revisions shall be to assure the fiscal integrity of the program, including assuring that the expenditures for the program do not exceed the amount specified in item [9110-1455](#) of section 2 of this act for fiscal year 2005. Such program revisions shall include, but not be limited to, those necessary to assure that the program is consistent with and maximizes the availability of funding for eligible program members and any federal financial participation due the commonwealth, if any, under the provisions of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, and any successor federal legislation.

*Coordination of Prescription Advantage with Federal Program*

SECTION 386. Notwithstanding the provisions of any general or special law to the contrary, amounts received by the department of elder affairs' vendor as premium revenue for the prescription drug insurance program authorized by [section 39 of chapter 19A](#) of the General Laws may be retained and expended by the vendor for the purposes of the program.

*MassHealth Enrollment*

SECTION 387. Notwithstanding the provisions of any general or special law to the contrary, the provisions of [section 632 of chapter 26 of the acts of 2003](#) shall apply in fiscal year 2005.

*Retention of Fees for Aging Services Access Points*

SECTION 388. Notwithstanding the provisions of any general or special law to the contrary and consistent with guidelines issued by the secretary of elder affairs, \$7,500,000 in revenues accrued from sliding fees for elder home care services shall be retained by the individual aging services access points, as established under [section 4B of chapter 19A](#) of the General Laws, providing such services, and shall be expended without further appropriation by said aging services access points for the purposes of the home care program.

*Transferability for Home Care Case Management and Purchased Services*

SECTION 389. Notwithstanding the provisions of any general or special law to the contrary, the secretary

of elder affairs may transfer an amount not to exceed 3 per cent of the funds appropriated in item [9110-1630](#) to item [9110-1633](#) of section 2 of this act for case management services and the administration of the home care program; provided further, that said secretary may transfer an amount not to exceed 3 per cent of the funds appropriated in item [9110-1633](#) to item [9110-1630](#) of section 2 of this act for home care purchased services.

#### *State Aid Calculation for Public Libraries*

SECTION 390. Notwithstanding the provisions of any general or special law to the contrary, for item [7000-9501](#) of section 2 of this act, no city or town shall receive any money from said item in any year when the appropriation of said city or town for free public library services is below an amount equal to 102.5 per cent of the average of the appropriations for free public library service for the three years immediately preceding; provided, that the board of library commissioners may grant waivers in excess of the waiver limit set forth in the second paragraph of [section 19A of chapter 78](#) of the General Laws in fiscal year 2005 for a period of not more than one year; and provided further, that for the amount by which this item exceeds the amount appropriated in [chapter 194 of the acts of 1998](#), funds shall be distributed under the guidelines of the municipal equalization and library incentive grant programs.

#### *State Aid Calculation for Regional Library Systems*

SECTION 391. Notwithstanding the provisions of any general or special law to the contrary, for item [7000-9401](#) of section 2 of this act, the board of library commissioners may provide quarterly advances of funds for purposes authorized by clauses (1) and (2) of [section 19C of chapter 78](#) of the General Laws, as it deems proper, to regional public library systems throughout the fiscal year, in compliance with the office of the state comptroller's regulations on state grants, 815 CMR 2.00; provided further, that the Boston public library shall, as the library of last recourse for reference and research services for the commonwealth, be paid from this item an amount equal to \$1.06 per resident in the commonwealth; and provided further, that in calculating the fiscal year 2005 distribution of funds appropriated in said item, the board of library commissioners shall employ population figures used to calculate the fiscal year 2004 distribution.

#### *Reunification of Labor and Workforce Development*

SECTION 392. Notwithstanding the provisions of any general or special laws to the contrary, wherever in sections 160 to 168A inclusive, of [chapter 149](#) of the General Laws, the words "director of workforce development" appear, they shall be changed to "director of labor and workforce development" and wherever they so appear, the words "department of workforce development" shall be changed to "department of labor and workforce development".

*Reunification of Labor and Workforce Development*

SECTION 393. Notwithstanding the provisions of any general or special law to the contrary, the department of labor and workforce development shall administer the one-stop career centers, so-called, and the division of unemployment assistance shall contract with the department to ensure, through all reasonable efforts, the smooth and uninterrupted processing of applications and delivery of benefits.

*Reunification of Labor and Workforce Development*

SECTION 394. Notwithstanding the provisions of any general or special law to the contrary, wherever in the General Laws the words "director of labor" appear, they shall be changed to "director of labor and workforce development", and wherever the words "department of labor" appear, they shall be changed to "department of labor and workforce development".

*Reunification of Labor and Workforce Development*

SECTION 395. Notwithstanding the provisions of any general or special law to the contrary, wherever in the General Laws the words "director of workforce development" appear, they shall be changed to "director of labor and workforce development", and wherever the words "department of workforce development" appear, they shall be changed to "department of labor and workforce development".

*Division of Industrial Accidents Assessments*

SECTION 396. The General Fund shall be reimbursed the amount appropriated in item [7002-0500](#) of section 2 of this act, and for associated indirect and direct fringe benefit costs, from assessments levied pursuant to [section 65 of chapter 152](#) of the General Laws.

*Penalties for Failure to Carry Workers' Comp*

SECTION 397. [Section 22 of chapter 90](#) of the General Laws is hereby amended by inserting after Subsection (j) the following subsection:-

(k) Upon receipt of notice, as specified by the registrar, from the department of industrial accidents of a final determination on failure to carry worker's compensation insurance to suspend or prohibit issuance or renewal of a license or certificate of registration has been issued against an employer, including where such employer is a corporation, the president or treasurer or both, a resident of the commonwealth or an individual licensed to operate a motor vehicle under this chapter, after a hearing or an opportunity therefor

pursuant to [section 25C of chapter 152](#), the registrar, without opportunity for further hearing, shall suspend or prohibit issuance or renewal of such license, learner's permit, right to operate a motor vehicle or certificate of motor vehicle registration held by such employer and individual and forward any notice required by paragraph (d) to such parties. Notwithstanding any other provisions of this chapter, the opportunity for a hearing provided by the department of industrial accidents pursuant to [section 25C of chapter 152](#) shall constitute the exclusive administrative remedy to contest the finding of failure to carry worker's compensation insurance which is the basis for action by the department of industrial accidents to effect the suspension, nonissuance or nonrenewal of a license, learner's permit or right to operate a motor vehicle or certificate of motor vehicle registration. The provisions of [section 28 of chapter 90](#) shall not apply.

Upon application, the registrar shall reinstate, issue or renew such license, learner's permit or right to operate a motor vehicle or allow the registration of a motor vehicle if the department of industrial accidents provides the registrar a notice, as specified by the registrar, stating that the resident or other individual is in compliance with [section 25C of chapter 152](#). Said employer, individual and corporate officer shall be assessed a \$100 workers' compensation reinstatement fee per license, permit or registration issued, renewed or reinstated by the registrar in addition to the current fees charged by the registrar for these services. Said workers' compensation reinstatement fee shall be transmitted by the registrar to the treasurer for deposit into the General Fund. Notices between the department of industrial accidents and the registrar under this subsection may be made in any form, including electronic transmission.

#### *Division of Insurance Assessment*

SECTION 398. Notwithstanding the provisions of any general or special law to the contrary, 100 per cent of the amount appropriated in item [7006-0020](#) of section 2 of this act shall be assessed upon all institutions which the division of insurance currently regulates, except for licensed business entity producers, pursuant to powers granted to said division by the General Laws, a special law or state regulations. Said assessment shall be in addition to any and all assessments that said division currently assesses upon said institutions. Said institutions shall pay said assessments within 30 days after receiving notice from the commissioner of insurance of the amounts due from them.

#### *Department of Telecommunications and Energy Assessment*

SECTION 399. Notwithstanding the provisions of any general or special law to the contrary, the assessments levied pursuant to [section 18 of chapter 25](#) of the General Laws against electric, gas, cable television, telephone and telegraph companies regulated by the department of telecommunications and energy, and against each generation company and supplier licensed by said department to do business in the commonwealth, shall be at a rate sufficient to generate 100 per cent of the amount appropriated in item [7006-0070](#) of section 2 of this act. Said companies or licensees shall pay said assessments within 30 days after receiving notice from said department of the amounts due from them.

*Local Tourist Councils*

SECTION 400. Notwithstanding the provisions of any general or special law to the contrary, funds appropriated in item [7007-1000](#) of section 2 of this act shall be distributed in accordance with [section 14 of chapter 23A](#) of the General Laws.

*Small Business Development Center*

SECTION 401. Notwithstanding the provisions of any general or special law to the contrary, funds appropriated in item [7007-0800](#) of section 2 of this act, shall be used as the state match for federal funds received from the United States Small Business Administration and the United States Department of Defense.

*Legacy of Learning - Alternative Education Grants*

SECTION 402. Notwithstanding the provisions of any general or special law to the contrary, the board of education shall administer a grant program to provide alternative education programs for behaviorally disruptive students in grades 6 - 12. Funding appropriated for this program shall be used for grants to educational collaboratives or school districts to develop or expand alternative school programs, provided that said programs are based on documented best practices in the field of alternative education and are coordinated with appropriate health and human services agencies. Funding appropriated for this program in item [7061-9627](#) of section 2 of this act may be used for the salaries of teachers, counselors, and other staff; educational supplies and materials; transportation; and other necessary services. This grant program shall supplement and shall not supplant currently funded local, state, and federal programs at the school or district.

Any funds distributed under this grant program to cities, towns, or regional school districts shall be deposited with the treasurer of the city, town, or regional school district and held in a separate account and shall be expended by the school committee without further appropriation, notwithstanding the provisions of any general or special law to the contrary. The department of education may use up to 2.5 per cent per year of the funds appropriated for this program for implementation, including review of grants and oversight, data collection and reporting, program monitoring, program evaluation and documentation, and dissemination of best practices. Funds under this program may be expended through August 31 of the fiscal year following the year of appropriation.

*Legacy of Learning - Full Day Kindergarten for Low Scoring Districts*

SECTION 403. Notwithstanding the provisions of any general or special law to the contrary, the board of education shall administer a grant program to assist the school districts of Brockton, Fitchburg, Haverhill,

Lynn, Southbridge, Wareham, and Winchendon to offer full-day kindergarten to all eligible students. Funding appropriated for this program in item [7030-1007](#) of section 2 of this act shall be in addition to ongoing kindergarten development grant awards, and may be used for the salaries of teachers and aides, the purchase of appropriate furnishings and equipment, and lease or purchase of portable classroom space if needed. This grant program shall supplement and shall not supplant currently funded local, state, and federal programs at the school or district. Any funds distributed under this grant program to cities, towns, or regional school districts shall be deposited with the treasurer of the city, town, or regional school district and held in a separate account and shall be expended by the school committee without further appropriation, notwithstanding the provisions of any general or special law to the contrary.

### *Legacy of Learning - Lowest Scoring District Support*

SECTION 404. The board of education shall administer a grant program to provide intensive supplemental academic instruction to low-performing students in grades 4 - 10 in high poverty communities. Funding appropriated for this program shall be used for grants targeted to the 24 municipal school districts, 13 regional vocational-technical school districts, and five charter schools that the department of education has identified as having the lowest levels of student performance on the Massachusetts Comprehensive Assessment System exam. In its grant application, the eligible school district or charter school shall specify its plan for working in partnership with institutions of higher education, private entities, or other qualified parties. Services provided through these grants shall be coordinated with other services being funded through local, federal, or other funding services. This grant program shall supplement and shall not supplant currently funded local, state, and federal programs at the school or district.

Said grants shall be used to fund intensive supplemental academic instructional services for low-performing students in mathematics or English language arts, or both, provided that the services are research-based or have proven effectiveness. Grants may be awarded for services to extend the school day or school year, including vacation periods, for participating students and, at the high school level only, to provide supplemental academic instruction during the scheduled school day. Funded programs shall provide instruction by highly qualified teachers that is aligned with the learning standards and performance expectations set forth in the Massachusetts curriculum frameworks and targeted to address specific gaps in participating students' knowledge and skills. The grant recipient shall identify a district-wide academic support coordinator to ensure effective program planning, implementation, and evaluation as well as adequate integration of the program into goals and strategies identified for the district as a whole.

Notwithstanding any provision of [chapter 150E](#) of the General Laws or any other law to the contrary, the terms and conditions contained in any collective bargaining agreements between a school district and the representative of its teachers, paraprofessionals, or other staff shall not apply to the recruitment, selection, and employment of highly qualified personnel to provide academic instruction and support services pursuant to a program under this section.

Any funds distributed under this grant program to cities, towns, or regional school districts shall be deposited with the treasurer of the city, town, or regional school district and held in a separate account and shall be expended by the school committee without further appropriation, notwithstanding any general or special law to the contrary. The department of education may use up to 2.5 percent per year of the funds appropriated for this program for implementation, including review of grants and oversight, data collection and reporting, program monitoring, and program evaluation, provided that the department shall contract with a third party



to conduct the program evaluation. Funds under this program may be expended through August 31 of the fiscal year following the year of appropriation.

*Legacy of Learning - Math and Science Teacher Initiative*

SECTION 405. Notwithstanding the provisions of any general or special law to the contrary, the department of education shall administer a program to improve student achievement in mathematics and science by strengthening the content knowledge and skill of current teachers and recruiting and retaining highly qualified new teachers. The department shall use funding appropriated for this program in items [7010-0020](#) and [7010-0023](#) of section 2 of this act in support of the following:

(a) The department shall use up to \$1,000,000 from said item [7010-0020](#) to administer grants, sponsor content institutes and other professional development programs, provide technical assistance, and conduct related activities to supplement and expand the existing mathematics and science partnership program to improve teachers' content knowledge and skill in mathematics and science. Any funds distributed under this grant program to cities, towns, or regional school districts shall be deposited with the treasurer of the city, town, or regional school district and held in a separate account and shall be expended by the school committee without further appropriation, notwithstanding the provisions of any general or special law to the contrary.

(b) The department shall use up to \$500,000 from said item [7010-0020](#) to develop and implement an on-line diagnostic tool to be used by teachers to assess their content knowledge and skills in mathematics in order to determine their professional development needs in relation to the learning standards in the Massachusetts curriculum framework for mathematics.

(c) The department shall use up to \$1,060,000 from said item [7010-0023](#) to administer a teacher signing bonus program to encourage highly qualified candidates to teach mathematics or science in public schools in high-need districts in the commonwealth. Recipients shall receive a \$3,000 bonus for each year that they teach mathematics or science in such public schools, for up to five years. The board of education shall promulgate regulations, where necessary, for the effective implementation of the mathematics and science teacher signing bonus program.

(d) Notwithstanding the provisions of any general or special law to the contrary, the department of education is authorized to spend up to \$440,000 in the fiscal year beginning July 1, 2004, to provide third-year bonuses to up to 110 teachers in the Massachusetts Institute for New Teachers program, so-called, established under [section 19B of chapter 15A](#) of the General Laws.

*Legacy of Learning - Parent Orientation and School Participation*

SECTION 406. The board of education shall administer a program to provide information and training for parents to assist them in nurturing their children's development and education and to strengthen parents' involvement in their children's schooling. Funding appropriated for this program in item [7061-9608](#) of section 2 of this act shall be used for: (a) parent orientation and information for parents of children from birth to five years of age who are enrolled in state-subsidized child care programs, which program shall be known as the parent-child care partnership; and (b) parent-school participation incentives for parents of students in the 24 municipal school districts and five charter schools that the department of education has identified as having



the lowest levels of students performance on the Massachusetts Comprehensive Assessment System exam.

The parent-child care partnership program shall be administered by the department of education in collaboration with the office of child care services. Funding appropriated for this program shall be used to provide individual 30 minute parent orientation sessions for each parent twice a year, as an integral part of the mandatory intake process between parents and intake counselors in child care programs. Counselors trained in child development will provide parents with information on what to expect at various stages of their child's development, how they can participate in their child's education, and what they can do to encourage their children to learn and grow. Funding appropriated for the parent-child care partnership program shall also be used by the department of education, in collaboration with the office of child care services, to produce a guidebook for parents on what they can do to nurture their children's development and education. The department shall make the guidebook available in English and in four other languages most commonly spoken in the commonwealth.

For purposes of collaboration between the department of education and the office of child care services, and notwithstanding any provision of [chapter 66A](#) of the General Laws to the contrary, the department of education, the office of child care services, and community partnership lead agencies may share with each other personal data regarding the parents and children who receive services provided under grant programs funded by the commonwealth, to the extent necessary for reporting and program implementation as required by federal and state law.

The board of education shall administer a grant program known as the parent-school participation program. The purpose of the program shall be to increase parents' participation in their children's schooling in the 24 municipal school districts and five charter schools that the department of education has identified as having the lowest levels of student performance on the Massachusetts Comprehensive Assessment System exam. Funding appropriated for this program shall be used to support teacher-parent conferences, open houses, and other forms of school-parent outreach. Said funding may be used to expand the roles of existing school and district personnel, and may not be used to hire additional school or district personnel. Grant recipients shall be required to demonstrate improvement in parental involvement as a result of the grant. Any funds distributed under this grant program to cities, towns, or regional school districts shall be deposited with the treasurer of the city, town, or regional school district and held in a separate account and shall be expended by the school committee without further appropriation, notwithstanding any general or special law to the contrary.

### *Distinct Local Funds for State Grants*

SECTION 407. Notwithstanding the provisions of any general or special law to the contrary, any grants made to a city, town, regional school district, educational collaborative, or charter school from items [7000-9501](#), [7010-0012](#), [7010-0017](#), [7027-0016](#), [7030-1002](#), [7030-1003](#), [7030-1005](#), [7030-1500](#), [7035-0002](#), [7053-1925](#), [7053-1927](#) and [7061-9404](#) of section 2 of this act shall be deposited with the treasurer of such city, town, regional school district, educational collaborative, or charter school and held as a separate account, and shall be expended by the school committee or public library, as applicable, without further appropriation.

*Federal Language for School Lunch Program*

SECTION 408. Amounts appropriated in item [7053-1909](#) in section 2 of this act shall be used to reimburse cities and towns for partial assistance in the furnishing of lunches to school children, including partial assistance in the furnishing of lunches to school children pursuant to chapter 538 of the acts of 1951, and for supplementing funds allocated for the special milk program. Notwithstanding the provisions of any general or special law to the contrary, payments so authorized for partial assistance in the furnishing of lunches to school children shall not exceed, in the aggregate, the required state revenue match contained in Public Law 79-396, as amended, cited as the National School Lunch Act, and in the regulations implementing said act.

*County Corrections Funding*

SECTION 409. Funds appropriated in item [8910-0000](#) of section 2 of this act shall be distributed among the counties by the county government finance review board. Funds appropriated in said item shall be expended for operating and debt service costs associated with the Plymouth county facility, pursuant to the provisions of clauses 3 and 4 of the memorandum of agreement signed May 14, 1992, between the commonwealth and Plymouth county, as amended on February 16, 1999. The funds distributed from said item shall be paid to the treasurer of each county who shall place such funds in a separate account within the treasury of each such county. Said treasurers shall authorize temporary transfers into said accounts for operation and maintenance of jails and houses of correction in advance of receipt of the amount distributed by the commonwealth from that item. Upon receipt of the commonwealth distribution, said treasurers may transfer out of such accounts an amount equal to the funds so advanced. All funds deposited in such accounts and any interest accruing thereto shall be used solely for the functions of the sheriffs' departments of the various counties including, but not limited to, maintenance and operation of jails and houses of correction, without further appropriation. The sheriff's department of each county shall reimburse the treasurer of each such county for personnel-related expenses, with the exception of salaries, attributable to the operations of the sheriff's department of each county heretofore paid by the county including, but not limited to, the cost of employee benefits. Notwithstanding the provisions of any general or special law to the contrary, no county treasurer shall retain revenues derived by the sheriffs from commissions on telephone service provided to inmates or detainees. Said revenues shall be retained by the sheriffs, not subject to further appropriation, for use in a canteen fund, so called. Each county shall expend during fiscal year 2005, for the operation of county jails and houses of correction and other statutorily authorized facilities and functions of the office of the sheriff, in addition to the amount distributed from this item, not less than 102.5 per cent of the amount expended in fiscal year 2004 for such purposes from own-source revenues. The department of public health shall notify the county government finance review board and the state comptroller of the costs of all services provided to inmates of county correctional facilities by Lemuel Shattuck hospital that are to be paid from item [8910-0010](#). Not more than 30 days after receiving such notification, said board shall certify to the comptroller the amount of such costs to be charged to this item. Upon receiving such certification, the comptroller shall effect the transfer of such amount from item [8910-0010](#) to item [4590-0915](#) of said section 2. Actual and projected payments for all such services provided by said hospital shall be considered expenditures within each county spending plan and shall be reflected as such.

*Local Law Enforcement Assistance Program Formula-Based Distribution*

SECTION 410. The local law enforcement assistance program administered by the executive office of public safety shall be distributed to municipalities according to a formula giving equal weight to each municipality's population and crime statistics, and, if necessary, implemented over a period of time to minimize the impact on individual communities; provided, that no grant shall be awarded to the department of state police. No municipality shall be eligible for funding under this program until all previously awarded community policing grant funds have been expended; provided, that recipients of said grants shall account for all sex offenders within their jurisdiction in cooperation with the sex offender registry board; provided further, that funds shall be expended consistent with guidelines established by the secretary of public safety; provided further, that the executive office of public safety may expend not more than \$65,000 from item [8000-0010](#) of section 2 for the administration of the local law enforcement assistance program; and provided further, that not later than February 1, 2005, the executive office of public safety shall submit a report to the house and senate committees on ways and means and to the secretary for administration and finance detailing the amount of grants awarded to said grant recipients and descriptions of said grants and each municipality will provide the executive office of public safety with a comprehensive list of the best-practices that have been instituted as a result of these grants.

*Department of Public Safety Inspectors' Retirement*

SECTION 411. Notwithstanding the provisions of any general or special law to the contrary, only inspectors employed by the department of public safety as of July 1, 2004, and who are eligible for group 2 retirement benefits pursuant to subsection (1)(g) of [section 3 of chapter 32](#) of the General Laws shall continue to be classified in group 2 and entitled to said group 2 retirement benefits; provided, that those inspectors remain employed as inspectors by the department of public safety until their retirement.

*Division of Fire Services Assessments*

SECTION 412. Notwithstanding the provisions of any general or special law to the contrary, 100 per cent of the amount appropriated in item [8324-0000](#) of section 2 of this act, including the associated indirect costs and fringe benefits of the programs provided for therein, shall be assessed to insurance companies writing fire, homeowner's multiple peril, or commercial multiple peril policies on property situated in the commonwealth. Said companies shall pay said assessments within 30 days after receiving notice from the commissioner of insurance of the amounts due from them.

*Safe Driver Insurance Plan Program Assessment*

SECTION 413. Notwithstanding the provisions of any general or special law to the contrary, the amount appropriated in item [8400-0100](#) of section 2 of this act, including the associated indirect costs and fringe benefits of the program provided for therein, in addition to 40 per cent of the costs of personnel services associated with use of the registry of motor vehicles computer system by the merit rating board, shall be assessed to insurance companies conducting motor vehicle insurance business within the commonwealth, pursuant to [section 183 of chapter 6](#) of the General Laws.

*Nuclear Safety Preparedness Program Assessment*

SECTION 414. Notwithstanding the provisions of any general or special law to the contrary, the cost of the nuclear safety preparedness program provided for in item [8800-0100](#) in section 2 of this act, including associated indirect costs and fringe benefits, shall be assessed upon nuclear regulatory commission licensees operating nuclear power generating facilities in the commonwealth. The department of telecommunications and energy shall develop an equitable method of apportioning said assessments among said licensees. Said assessments shall be paid during the current fiscal year as provided by said department.

*Seabrook Nuclear Power Plant Monitoring Assessment*

SECTION 415. Funds from item [8800-0300](#) in section 2 of this act may be used for environmental monitoring of the nuclear power plant in Seabrook, New Hampshire, including a continuous real-time radiological monitoring system for Massachusetts cities and towns located within the emergency planning zone of said plant. The cost of said monitoring as provided for in item [8800-0300](#), including fringe benefits and indirect costs, shall be assessed upon electric companies in Massachusetts which own, in whole or in part, or purchase power from said plant. For the purposes of this section, electric companies shall be defined as all persons, firms, associations, and private corporations which own or operate works or distribute electricity in the commonwealth, but shall not include municipalities or municipal light plants.

*Radiological Emergency Response Plan Assessment*

SECTION 416. Notwithstanding the provisions of any general or special law to the contrary, the cost of the radiological emergency response plan evaluations as provided for in item [8800-0200](#) in section 2 of this act, including associated fringe benefits and indirect costs, shall be assessed upon electric companies in the commonwealth which own, in whole or in part, or purchase power from, nuclear power plants located outside the commonwealth whose nuclear power plant areas, as defined in section 2B of chapter 639 of the acts of 1950, include communities located within the commonwealth. Said assessments shall be credited to the General Fund. For the purposes of this section, the term "electric companies" shall mean all persons, firms, associations, and private corporations which own or operate works or a distributing plant for the manufacture and sale or distribution and sale of electricity within the commonwealth, but shall not include

municipalities or municipal light plants.

*Litigation Anniversary Fee - Effective Date*

SECTION 417. Section [275](#) shall take effect on October 1, 2003.

*Fund Transfer Effective Date*

SECTION 418. Sections [59](#) and [313](#) shall take effect on June 30, 2004.

*Effective Date*

SECTION 419. Except as otherwise provided, the provisions of this act shall take effect on July 1, 2004.